FIFTY-SEVENTH REPORT

OF THE

NORTH CAROLINA

UTILITIES COMMISSION

ORDERS AND DECISIONS

ISSUED FROM
JANUARY 1, 1967, THROUGH DECEMBER 31, 1967

FIFTY-SEVENTH REPORT

OF THE

NORTH CAROLINA

UTILITIES COMMISSION

ORDERS AND DECISIONS

Issued from

January 1, 1967, through December 31, 1967

Harry T. Westcott, Chairman

Thomas R. Eller, Jr., Commissioner

John Worth McDevitt, Commissioner

*M. Alexander Biggs, Jr., Commissioner

**Clawson L. Williams, Jr., Commissioner

NORTH CAROLINA UTILITIES COMMISSION

Office of the Chief Clerk

Mary Laurens Richardson
Post Office Box 991
Raleigh, North Carolina 27602

The Statistical and Analytical Report of the North Carolina Utilities Commission is printed separately from the volume of Orders and Decisions and will be available from the Office of the Chief Clerk of the North Carolina Utilities Commission upon order.

*Appointed July 1, 1967, replacing Clarence Hugh Noah
**Appointed July 1, 1967, replacing Samuel O. Worthington

LETTER OF TRANSMITTAL

December 31, 1967

The Governor of North Carolina
Raleigh, North Carolina

Sir:

Pursuant to the provisions of Section 62-17 (b) of the General Statutes of North Carolina, providing for the annual publication of the final decisions of the Utilities Commission on and after January 1, 1967, we hereby present for your consideration the report of the Commission's decisions for the twelve-month period beginning January 1, 1967, and ending December 31, 1967.

The additional report provided under G.S. 62-17 (a), comprising the statistical and analytical report of the Commission, is printed separately from the volume and will be transmitted immediately upon completion of printing.

Respectfully submitted,

NORTH CAROLINA UTILITIES COMMISSION

Harry T. Westcott, Chairman

Thomas R. Eller, Jr., Commissioner

John Worth McDevitt, Commissioner

M. Alexander Biggs, Commissioner

Clawson L. Williams, Commissioner

Mary Laurens Richardson, Chief Clerk

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of the

NORTH CAROLINA UTILITIES COMMISSION

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DOCKET NO. EB-2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Administrative Order dated September 1, 1966 - Exemption from regulation by the North Carolina Utilities Commission of transportation of passengers for or under the control of the United States government, or the State of North Carolina, or any political subdivision thereof, or any board, department or commission of the State, or any institution owned and supported by the State, if not engaged at the time in the transportation of other passengers for compensation) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, November 22, 1966, at 10 a.m.

BEFORE: Chairman Harry T. Westcott, presiding, and Commissioners Sam O. Worthington, Clarence H. Noah, Thomas R. Eller, Jr., and John W. McDevitt

APPEARANCES:

For the Respondents:

J.B. Tucker
Ward & Tucker
Attorneys at Law
Box 867, New Bern, North Carolina
For: Seashore Transportation Company

Arch T. Allen
Allen, Steed & Pullen
Attorneys at Law
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For: Carolina Coach Company
Virginia Stage Lines, Inc.

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Wachovia Bank & Trust Company
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For: Queen City Coach Company

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For: Southern Greyhound Lines,
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Box 1206, Raleigh, North Carolina
For: Southern Coach Company

Robert M. Martin
Martin, Whitley & Washington
Attorneys at Law
P.O. Box 469, High Point, North Carolina
For: Moore Brothers Transportation Company
Consolidated Bus Lines, Inc.
Suburban Bus Lines, Inc.
Safety Transit Company

WESTCOTT, CHAIRMAN: Under date of September 1, 1966, a majority of the Commission issued an Administrative Order after having heard discussions and arguments by counsel with respect to a proper interpretation of the law relating to charter school trips or, specifically, exemption of passengers set forth in G.S. 62-260 (a) (1) and G.S. 62-262 (h) and Rule R2-67 of the Commission's rules and regulations. Said order contains the following decretal paragraph:

"IT IS, THEREFORE, ORDERED That the transportation of passengers for or under the control of the United States government, or the State of North Carolina, or any political subdivision thereof, or any board, department or commission of the State, or any institution owned and supported by the State, if not engaged at the time in the trans- portation of other passengers for compensation is exempt from regulation by this Commission."

Carriers of passengers most affected by and most interested in the result of the Administrative Order filed exceptions thereto and a request that the Commission stay the effectiveness of the order and afford them an opportunity for further hearing.

In consideration of and fully appreciating the importance of the matter, and desiring to give the carriers being most affected by the order every available opportunity to bring and present to the Commission any and all facts and circumstances not heretofore offered, a majority of the Commission concluded that further hearing should be held and that, pending such further hearing, the effectiveness of the Administrative Order should be suspended. In the third and last decretal paragraph of its order entered on October 6, 1966, a majority of the Commission suspended and stayed the Administrative Order of September 1, 1966, pending further hearing and a further determination of the facts offered and of applicable law relating to the subject at issue. Whereupon, on November 22, 1966, the captioned attorneys presented arguments before the Commission, and one company witness, Mr. C.H. Hall, Vice President and Manager of Seashore Transportation Company.

The majority of the Commission has given due consideration to the testimony offered and to the able argument of counsel and is now of the opinion, finds and concludes that its order of September 1, 1966, correctly interprets existing law relating to the transportation of passengers specifically exempted by the provisions of G.S. 62-260 (a) (1) and should therefore become the final order of the Commission in this proceeding.

IT IS THEREFORE ORDERED That exceptions filed to the Commission's order of September 1, 1966, in Docket No. EB-2, be and each of them is hereby overruled.

IT IS FURTHER ORDERED That the third decretal paragraph on page 2 of the Commission's order of October 6, 1966, be and the same is hereby vacated and set aside; and, further, that the order of the majority of the Commission dated September 1, 1966, be and the same is hereby ordered to be the final order of the Commission in Docket No. EB-2.

IT IS FURTHER ORDERED that a copy of this order be transmitted to each of the parties of record in this proceeding.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. EB-2

WORTHINGTON, COMMISSIONER, DISSENTING: Following a conference-hearing with common carriers of passengers by bus a majority order was issued by the Commission on September 1, 1966, holding in effect that the transportation of passengers for or under the control of the United States government, or the State of North Carolina, or any political subdivision thereof, or any board, department or commission of the State, or any institution owned and supported by the State, if not engaged at the time in the transportation of other passengers for compensation is exempt from regulation by the Commission. The decretal paragraph of the order is, within itself, confusing and uncertain for that it states "that the transportation of passengers for or under the control of the United States government . . . if not engaged at the same time in the transportation of other passengers for compensation is exempt from regulation by this Commission." Certainly, it is the carriers and the vehicles that are engaged in the transportation of passengers, and the transportation of passengers, as such, does not engage in anything. I think it logical to assume that the writer intended and meant to say that the transportation of passengers under the control of the United States government of the State of North Carolina, if those so engaged are not

at the same time engaged in the transportation of other passengers for compensation, is exempt from regulation.

Exceptions were filed to the order of September 1, 1966, with a request for further hearing and conference. By a majority vote the matter was reopened and further hearing and conference held. The same majority which issued the order of September 1, 1966, has issued the order here at issue, and for all practical purposes, with the exception of relating procedural actions, the new order reaches the same conclusion and contains the same ordering paragraph as the original order.

Those who sought the conference and hearing constitute the major carriers of passengers by bus under regulation by this Commission. Their whole operations have always been subject to the jurisdiction of this Commission. They are assigned or given certain franchise routes with authority to originate charter party service in accordance with the rules of the Commission, and their rates and charges for both regular passenger fares and for charter service are subject to regulation by this Commission. They see in the present order of the majority a confusing and intolerable situation in that they are regulated for part of their service and once this order becomes final are not regulated to the extent that this order exempts from regulation certain types of passengers. They see further confusion and misunderstandings in that serious competitive situations involving the cutting of rates and insurance coverage which may lead to serious complications. They prefer that they still be required to confine their operations to their assigned routes and territories and in accordance with the rules and regulations of the Commission now in effect.

The majority holds to the view that the deletion of the words "or other times" from (1) of G.S. 62-121.47, now G.S. 62-260(a), which reads:

> "Nothing in this chapter shall be construed to include persons and vehicles engaged in one or more of the following services by motor vehicle if not engaged at the time [present reading] in the transportation of other passengers or other property by motor vehicle for compensation,"

completely removes the passenger transportation at issue from regulation of any kind and cites the McKinnon case, 254 N.C. 1, as authority therefor. They hold that the deletion of the words "or other times" prevents this Commission from exercising any jurisdiction over those who or which may engage in the transportation of the passengers here at issue, either as to origin or destination by any carrier or any vehicle.

I do not believe that the McKinnon case, supra, is authority for any such result or holding, and I quote from this opinion as follows:

"Therefore, we hold that an exempted intracity carrier, under G.S. 62-121.47(h) [now G.S. 62-260], has no territorial limitations as to the transportation of passengers under subsections (a) and (f) of such statute, WHERE THE REQUEST FOR SUCH SERVICES ARISES WITHIN THE AREA FOR WHICH SUCH CARRIER HOLDS A CERTIFICATE OF EXEMPTION FROM THE COMMISSION AND A FRANCHISE FROM THE MUNICIPALITY IN WHICH IT OPERATES OR WITHIN ANY ADDITIONAL ZONE OR ZONES ADJACENT THERETO WHICH HAVE BEEN FIXED BY THE COMMISSION." (Emphasis added.)

In the McKinnon case the carrier was engaged in an exempt operation and was also engaged in hauling passengers that were exempt by statute, and the Court simply held that where the operation was exempt and the passengers to be hauled were exempt, that the operator could originate within its territorial operation and take to any point in the State. The Court did not hold that any carrier at any time, at its own election, could pick up passengers, the transportation of whom is exempt by statute, and transport them to or from any points in the State. One thing for sure, if the Court so held, the legislature ought to make some change in the law because carriers operating under the jurisdiction of this Commission, under a franchise granted by this Commission, should not be permitted, with vehicles carrying common carrier license plates and paying common carrier license requirements, to operate outside of their authorized territories and originate and terminate passengers who are exempt from regulation. Such operation cannot be policed and can only lend to much confusion in the bus operations in this State.

Without recapitulating I here refer to and adopt the dissent filed with the original order in this matter to all intents and purposes to the same extent as if same were here included and make same a part of this dissent.

For the reasons here stated and those set forth in the original dissent in this matter, I disagree with the result reached and therefore dissent to the action of the majority.

Sam O. Worthington, Commissioner

I also refer to and adopt the dissent to the entry of the original order in this docket.

Thomas R. Eller, Jr., Commissioner

DOCKET NO. M-100, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Revision of Rule R2-59 - Time Tables) ORDER

BY THE COMMISSION: The North Carolina Utilities Commission, acting under the power and authority delegated to it by law for the promulgation and enforcement of rules and regulations for the enforcement of the Utilities Act, directed a notice to all regulated motor passenger carriers operating in intrastate commerce in North Carolina of proposed rule-making proceeding set for April 20, 1967, involving proposed amendments to and rewriting of Commission Rule R2-59 establishing time table requirements of the Commission's motor carrier regulations. The proceeding was subsequently postponed until August 22, 1967, on which date a number of motor passenger carriers appeared before the Commission and a full discussion was entered into regarding the proposed changes.

Upon consideration of the proposed amendment and of comments and suggestions made by the carriers, both in writing and orally at the formal proceeding, the Commission is of the opinion that said revised Rule R2-59 should be adopted with certain amendments presented at said hearing.

IT IS, THEREFORE, ORDERED:

That Rule R2-59 of the Commission's rules and regulations be hereby amended to read as follows:

"Rule R2-59. Time Tables or Schedules.-(a) Information in Table.-Every common carrier of passengers shall file with the Commission a time table showing the time of arrival and departure of its coaches at each regular station or stop, and such time table shall further show the number of trips to be made daily over each route or routes. Time tables shall be available in each waiting room at bus stations. Time tables shall bear an issuing date and an effective date.

(b) Time Table Changes.-Any change in or addition to a time table shall be made by reissuing the time table. Each new time table shall cancel the previous time table. Every time table shall bear a number which shall be placed in the upper left hand corner of the title page and shall be printed in bold type. Time tables shall be numbered consecutively. Fifteen (15) copies of all changes in time schedules shall be filed with the Commission not less than twenty (20) days prior to the effective date of change, together with a certificate that copies thereof have been furnished by certified or registered mail to all connecting and competing carriers and that said changes have been posted in bus stations and at bus stops: Provided, however, that the Commission may order such

changes to be made upon shorter notice. All such time schedule changes shall be accompanied by a statement explaining each change and reciting in clear, concise language the reason or reasons for such changes. In addition, whenever any such change results in a reduction in the number of schedules being operated over any line or route, or when such change will affect a reduction in the amount of passenger service rendered at any terminal, station or intermediate point, such must be clearly indicated in the accompanying statement and underscored.

(c) Protest.-Where change in time schedules is properly posted in accordance with subsection (b) above and no protest is received by the Commission during the first fifteen (15) days after notice is properly posted, the carrier, unless otherwise directed by the Commission, will be allowed to make the change effective on date shown on the schedule, subject to complaint and further order of the Commission. No protest by a connecting or competing carrier to a change of schedule will be considered unless it is filed with the Commission in writing, gives the reasons for such protest and certifies that a copy thereof has been mailed by certified or registered mail to the carrier proposing the change.

(d) Adherence to Schedules.-Time schedules as filed with and approved by the Commission and posted for the information of the public shall be strictly complied with. Habitual or intentional delay to obtain passengers of a competitor will be considered just cause for removing the schedule of the offending carrier.

(e) This amended rule shall be effective on and after January 1, 1968."

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 11

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of The revision of certain rules and regulations of the North Carolina Utilities Commission, pursuant to G.S. 62-266 and Chapter 1039 of the Session Laws of 1967	)	ORDER

The North Carolina Utilities Commission acting under the power and authority delegated to it by law, after due consideration in open session, hereby promulgates and adopts

the following revisions to its rules and regulations relating to motor carriers and directs that the same shall be in full force and effect from and after the 15th day of November, 1967:

Add new Article 12 to read as follows:

Article 12

Specific Rules Applicable Only To Interstate Carriers.

Rule R2-72. Registration of certificates and permits.-Any motor carrier operating into, from, within, or through the State of North Carolina under authority issued by the Interstate Commerce Commission shall file with the North Carolina Utilities Commission and maintain a current record of such authority permitting operations within the borders of this State and such motor carrier shall not exercise such authority unless and until there shall have been filed with and approved by this Commission an application for the registration of such authority and there shall have been conpliance with all other requirements of this Article, provided, however, that such motor carrier shall only be required to file with this Commission that portion of its authority permitting operations within the borders of this State, and providing further that such motor carrier shall not be required to file with this Commission emergency or temporary operating authority having a duration of thirty (30) consecutive days or less, if such carrier has registered its authority and identified its vehicles under the provisions of this Article and furnished to this Commission a telegram or other written communication describing such emergency or temporary operating authority and stating that operation thereinder shall be in full accord with the requirements of this Article.

Rule R2-73. Registration of interstate authority.-(a) The application for the registration with this Commission of interstate authority permitting operations within the borders of this State shall be in the form set forth in Form A appended to and made a part of this Article. The application shall be filed in duplicate, the original of which must have a copy of the ICC operating authority attached. The application shall be accompanied by a fee in the amount of $25.00.

(b) Applications for the registration of subsequent amendments to ICC authority permitting operations within the borders of this State shall be filed in the manner described in the preceding paragraph and shall be accompanied by a fee in the amount of $5.00.

Rule R2-74. Registration and identification of vehicles.-(a) On or before the 31st day of January of each calendar year but not earlier than the preceding first day of November, such interstate motor carriers shall apply to this Commission for the issuance of an identification stamp or

stamps for the registration and identification of the vehicle or vehicles which it intends to operate within the borders of this State during the ensuing year. Such application shall be accompanied by a filing fee in the amount of $1.00 for each identification stamp applied for. Applications for annual re-registration of such motor vehicles shall be accompanied by a filing fee in the amount of 25¢ for each identification stamp applied for. The application for the issuance of such identification stamps shall be in the form set forth in Form B appended to and made a part of this Article and such application shall be duly completed and executed by an official of the motor carrier. Such application shall be accompanied by a list identifying each vehicle which such carrier intends to operate within the borders of this State during the ensuing year and such list must be kept current by filing with the Commission an identification of each vehicle acquired for such operations and each vehicle whose operation is discontinued after the filing of such list. Provided: that vehicles of such carriers domiciled in another jurisdiction which extends reciprocity to vehicles of carriers domiciled in North Carolina, pursuant to the general reciprocal agreements heretofore or hereafter entered into with the North Carolina Commissioner of Motor Vehicles under Article 1A of Chapter 20 of the General Statutes, shall be exempt from the payment of registration fees required in this subsection to the same extent as such jurisdiction exempts vehicles of carriers domiciled in North Carolina from annual interstate public utilities vehicle registration fees similar to the fee required in this subsection.

(b) On or before the 31st day of January of each calendar year but not earlier than the preceding first day of November, such motor carrier shall apply to the National Association of Railroad and Utilities Commissioners or to this Commission for the issuance of a sufficient supply of uniform identification cab cards for use in connection with the registration and identification of the vehicle or vehicles which it intends to operate within the borders of this State during the ensuing year. The application for the issuance of cab cards shall be in the form set forth in Form C appended to and made a part of this Article. The application shall be printed on the reverse side of the uniform application for registration and identification of vehicles as set forth in Form B appended hereto. The application shall be duly completed and executed by an official of the motor carrier. Cab cards shall be in the form set forth in Form D appended hereto.

(c) The registration and identification of vehicles under the provisions of this Article and the identification stamp evidencing same and the cab card prepared therefor shall become void on the first day of February in the succeeding calendar year unless such registration is terminated prior thereto.

Rule R2-75. Evidence of liability and cargo security.-(a) All such interstate motor carriers shall keep in force at all times public liability and property damage insurance in amounts not less than the minimum limits prescribed by this Commission in its Rule R2-36. The policy shall have attached thereto an endorsement in the form set forth in Form F appended to and made a part of this Article and as evidence of such insurance, there shall be filed with this Commission a certificate in the form set forth in Form E appended to and made a part of this Article.

(b) In addition to the foregoing insurance, all common carriers of property shall obtain and keep in force cargo insurance in not less than the following amounts: (1) for loss of or damage to property carried on any one motor vehicle - $1,000; (2) for loss of or damage to or aggregate of losses or damages of or to property occurring at any one time and place - $2,000. The policy shall have attached thereto Endorsement Form I appended to and made a part of this Article and as evidence of such insurance, there shall be filed with this Commission certificate of insurance in the form set forth in Form H appended to and made a part of this Article. Contract carriers are not required to carry cargo insurance.

(c) Notice of cancellation of insurance shall be given to the Commission by the insurer in the form of notice set forth in Form K appended to and made a part of this Article.

(d) Such motor carriers who have been permitted to post bond in lieu of insurance or who have qualified as self-insurers, under the rules and regulations of the Interstate Commerce Commission, shall not engage in interstate commerce within the borders of this State unless and until such carriers have filed with and had accepted by this Commission surety bonds in the forms set forth in Forms G and J appended to and made a part of this Article or a true and legible copy of the currently effective ICC order authorizing such motor carrier to self-insure under the provisions of the Interstate Commerce Act. Notice of cancellation of surety bonds shall be given to the Commission in the form of notice set forth in Form L appended to and made a part of this Article.

Rule R2-76. Issuance of identification stamps and use of cab cards.-(a) Identification stamps will not be issued until such motor carriers are in full compliance with all of the provisions of this Article.

(b) Prior to operating a vehicle within the borders of North Carolina, the motor carrier shall place one of such identification stamps on the back of the cab card in the square bearing the name of this State in such manner that the same cannot be removed without defacing it. The motor carrier shall thereupon duly complete and execute the form of certificate printed on the front of the cab card so as to identify itself and such vehicle.

(c) The cab card shall be maintained in the cab of such vehicle for which prepared whenever the vehicle is operated under the authority of the carrier identified in the cab card.

(d) A cab card shall upon demand be presented by the driver to any authorized agent or representative of the North Carolina Utilities Commission.

(e) Each motor carrier shall destroy a cab card immediately upon its expiration and if a motor carrier permanently discontinues the use of the vehicle for which a cab card has been prepared, it shall nullify the cab card at the time of such discontinuance. Any erasure, improper alteration or unauthorized use of a cab card shall render it void.

(f) If a cab card is lost, destroyed, mutilated, or becomes illegible, a new cab card may be prepared and new identification stamp issued therefor upon application by the motor carrier and upon payment of the same fee prescribed for the original issuance thereof.

Rule R2-77. Designation of process agent.-No such carrier shall engage in interstate commerce within the borders of the State of North Carolina unless and until there shall have been filed with and accepted by this Commission a currently effective designation of a local agent for service of process. Such carrier shall file such designation by showing the name and address of such agent on the uniform application for registration of interstate operating authority as set forth in Form A attached hereto, or by furnishing this Commission with a true copy of the designation of such agent filed with the Interstate Commerce Commission.

Rule R2-78. Violations declared unlawful.-Any violation of the provisions of this Article is hereby declared unlawful and any motor carrier which violates any of the provisions of this Article or refuses to conform to or obey any rule therein shall be subject to the criminal penalties prescribed by law for violation of the rules and regulations of the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of October, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

NOTE: For Form A - Form L, see official Order in the Office of the Chief Clerk.

DOCKET NO. M-100, SUB 12

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Revision of Rule R2-36 - Increase in Security) ORDER
for Protection of the Public)

BY THE COMMISSION: The North Carolina Utilities Commission, acting under the power and authority delegated to it by law for the promulgation and enforcement of rules and regulations for the enforcement of the Public Utilities Act, directed a notice to all regulated motor carriers and exempt for hire passenger carriers, operating in intrastate commerce in North Carolina, of a proposed rule-making proceeding for September 25, 1967, involving proposed increases in insurance requirements as provided in Rule R2-36 of the Commission's motor carrier regulations. Several motor carriers appeared before the Commission in open session on September 25, 1967, and a full discussion was entered into regarding the amount of liability insurance motor carriers should be required to carry for the protection of the public. The Commission is of the opinion, as expressed at this meeting, that present requirements are inadequate and should be increased to the amounts published in the notice of the rule-making proceeding.

IT IS, THEREFORE, ORDERED that Rule R2-36 of the Commission's Rules and Regulations be hereby amended to read as follows:

Rule R2-36. Security for the protection of the public. - (a) All common and contract motor carriers, including exempt for hire passenger carriers, shall obtain and keep in force at all times public liability and property damage insurance issued by a company authorized to do business in North Carolina in not less than the following:

SCHEDULE OF LIMITS

Motor Carriers - Bodily Injury Liability - Property Damage Liability

(1) Kind of equipment	(2) Limit for bodily injuries to or death of one person	(3) Limit for bodily injuries to or death of all persons injured or killed in any one accident (subject to a maximum of $25,000 for bodily injuries to or death of one person)	(4) Limit for Loss or damage in any one accident to property of others (excluding cargo)
Passenger equipment: (seating capacity)			
7 passengers or less	$25,000	$100,000	$10,000
8 to 12 passengers, inclusive	25,000	150,000	10,000
13 to 20 passengers, inclusive	25,000	200,000	10,000
21 to 30 passengers, inclusive	25,000	250,000	10,000
31 passengers or more	25,000	300,000	10,000
Freight equipment: All motor vehicles used in the transportation of property	25,000	100,000	10,000

(b) The policy shall have attached thereto endorsement Form N.C.M.C. 24 and as evidence of such insurance there shall be filed with the Commission certificate of insurance Form N.C.M.C. 25.

(c) In addition to the foregoing insurance, all common carriers of property shall obtain and keep in force cargo insurance in not less than the following amounts: (1) for loss of or damage to property carried on any one motor vehicle - $1,000; (2) for loss of or damage to or aggregate of losses or damages of or to property occurring at any one time and place - $2,000. The policy shall have attached

thereto endorsement Form N.C.M.C. 26 and as evidence of such insurance there shall be filed with the Commission certificate of insurance Form N.C.M.C. 27. Contract carriers of property and passenger carriers are not required to carry cargo insurance.

(d) No insurance policy, endorsement, rider, or certificate of insurance issued by any insurance company, covering the liability of any motor carrier authorized to operate in North Carolina under a certificate or permit or certificate of exemption issued by the North Carolina Utilities Commission, will be accepted by said Commission for filing, unless the same is countersigned by a North Carolina resident agent of the insurance company duly licensed by the Insurance Commissioner of the State of North Carolina.

(e) To the end that the Commission may be advised of the risks and liabilities assumed by such motor carriers under such insurance policies, no deductible agreement between insurer and insured shall be deemed valid and enforceable against the insured unless a true and correct copy of such agreement, countersigned as required in subsection (d) hereof, shall have been first filed with and approved by the Commission.

(f) A common carrier or contract carrier or exempt for hire passenger carrier may qualify as self-insurer, or be permitted to post bond in lieu of insurance upon application to and written approval by the Commission, but no such application will be approved unless it shall appear to the satisfaction of the Commission that the applicant is in such financial condition as to be able to pay personal injury and property damage claims arising out of motor vehicle accidents from its own assets without seriously affecting its financial stability and the continuation of its operations. The Commission will accept only surety companies, authorized to do business in North Carolina, as surety on bonds referred to in this rule.

(g) In all cases under this rule, actual filing must be made with the Commission before operations begin. Letters or telegrams to the effect that insurance is in force will not be accepted in lieu of the actual filing.

(h) This amended rule shall be effective on and after February 15, 1968.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of October, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 13

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
The revision of certain rules and regulations)
applicable to contract motor carriers, pursuant) ORDER
to Chapter 1094 of the Session Laws of 1967)

BY THE COMMISSION: The 1967 General Assembly enacted Chapter 1094 of the 1967 Session Laws amending G.S. 62-114 by striking out the proviso at the end thereof and by inserting in lieu thereof the following:

"Provided, that the permit shall list the name of all contract parties the carrier is authorized to serve, and no additions or substitutions of contracts shall be made without approval of the Commission, and the Commission may adopt rules and regulations limiting the number of contract parties served by a contract carrier so that contract carriers shall not hold themselves out to serve in the manner of common carriers."

Acting pursuant to the above legislative enactment, the Utilities Commission instituted rule making proceedings in this docket to adopt rules pursuant to said legislation and issued notice of proposed rule making proceeding for September 25, 1967.

At the open session on September 25, one contract carrier attended and discussion was had of the operation and effect of the proposed rule.

Being of the opinion that the proposed rule, as amended, is necessary for the administration of said Act, and is reasonable and in the public interest, the North Carolina Utilities Commission acting under the power and authority delegated to it by law, after due consideration in open session, hereby promulgates and adopts the following revisions to rules and regulations relating to motor carriers and directs that the same shall be in full force and effect from and after the 30th day of September, 1967:

Rule R2-10. Granting authority.

Amend existing paragraph by inserting the letter (a) at the beginning thereof and by adding new paragraphs (b), (c), and (d) to read as follows:

(b) Contract carrier authority for the transportation of passengers or property will not be granted unless the proposed service conforms to the definition of a contract carrier as defined in G. S. 62-3(8) and applicant meets the burden of proof required under the provisions of G. S. 62-262(i) and Rule R2-15(b).

(c) Contract carrier authority for the transportation of property will not be granted to a motor carrier proposing to serve more than seven (7) shippers and such existing permits will not be amended to allow service to a total of more than seven (7) shippers unless the Commission, in its discretion, finds that the public interest so requires. Provided, however, this subparagraph shall not apply to motor carriers engaged primarily in the transportation of whole human blood, exposed and processed film, and commerical papers and documents between banking institutions and other points incidental to such bank transportation.

(d) In the case of contract carriers of passengers, the names of all contract parties will be incorporated in the permit by reference to the contract on file with the Commission, which shall not be subject to the limitation in the number of contract parties as set forth in subparagraph (c) above.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of October, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Revision of certain motor carrier rules and regulations of the North Carolina Utilities Commission, pursuant to Chapter 1135 of the Session Laws of 1967	)	ORDER

BY THE COMMISSION: The 1967 General Assembly enacted Chapter 1135 of the 1967 Session Laws providing in principal part as follows:

"Section 1. G.S. 62-260 is hereby amended by adding a new subsection (f) at the end thereof to read as follows:

"(f) Notwithstanding the exemptions for transportation of passengers and property provided under subsections (a) through (e) of this Section, all motor carriers transporting passengers for compensation under said exemptions or under any special exemptions granted by the Utilities Commission under G.S. 62-261 shall be subject to the same requirements for security for protection of the public as are established for regulated motor common carriers by the rules of the Utilities Commission pursuant to G.S. 62-268, and all such motor carriers transporting for hire under said exemption provisions shall further be subject to the same requirements for safety of operation of

said motor vehicles as are required of regulated motor common carriers under the provisions of this Chapter and the regulations of the Commission adopted pursuant thereto. The Commission is authorized to promulgate rules and regulations for the enforcement of said requirements in the case of all such exempt operations, and the officers and agents of the Commission shall have full authority to inspect said exempt vehicles and to apply all enforcement regulations and penalties for violation of said security regulations and safety regulations as in the case of regulated motor carriers.

"Sec. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

"Sec. 3. This Act shall be in full force and effect from and after February 15, 1968."

Acting pursuant to the above legislative enactment, the Utilities Commission instituted rule-making proceedings in this docket to adopt rules for the administration of the new insurance and safety requirements for exempt motor carriers of passengers, and issued notice of proposed rule-making proceeding for September 25, 1967.

At the open session on September 25, an exempt passenger carrier attended and discussion was had of the operation and effect of the proposed rule.

Being of the opinion that the proposed rule is necessary for the administration of said Act, and is reasonable and in the public interest, the North Carolina Utilities Commission acting under the power and authority delegated to it by law, after due consideration in open session, hereby promulgates and adopts the following revisions to rules and regulations relating to motor carriers and directs that the same shall be in full force and effect from and after the 15th day of February, 1968:

Article 2.

Exemptions.

Rule R2-2. Certificate; vehicle identification, etc.- Amend subparagraph (e) by rewriting Item (2) to read as follows:

(2) For the transportation of passengers or property not exempt from regulations.

and by adding Items (5) and (6) as follows:

(5) For failure of exempt for hire passenger carriers to keep on file with the Commission proper evidence of insurance as required by Rule R2-36.

(6) For failure of exempt for hire passenger carriers to comply with the safety rules and regulations of the Commission.

Rule R2-3. Purchase of for hire license tags.-Amend Rule R2-3 to read as follows:

(a) A certificate of exemption for the transportation of property issued as provided in Rule R2-2 constitutes approval by the Commission of the purchase of for hire tags for vehicles owned by and registered in the name of the party to whom such certificate of exemption is issued. The certificate of exemption must be presented to the Department of Motor Vehicles or its authorized agents when purchasing for hire tags.

(b) A certificate of exemption for the transportation of passengers issued as provided in Rule R2-2 does not in itself constitute approval by the Commission of the purchase of for hire tags for vehicles owned by the person to whom such certificate is issued. For hire tags may only be purchased by holders of exemption certificates for the transportation of passengers who are in full compliance with the insurance and safety rules of the Commission. Vehicles of such carriers must be registered with the Commission as required by Rule R2-22 and upon carrier's compliance with said insurance and safety rules and regulations, said vehicles will be approved to the Department of Motor Vehicles so that tags may by purchased, but not before.

Article 6.

Operations.

Amend Rule R2-22 to read as follows:

Rule R2-22. Beginning operations under a certificate or permit or certificate of exemption for the transportation of passengers.-(a) An order of the Commission, approving an application, or the issuance of a certificate or a permit, or a certificate of exemption for the transportation of passengers, does not within itself authorize the carrier to begin operations. Operations are unlawful until the carrier shall have complied with the law by:

(1) Registration of its rolling equipment with the Commission on Form N.C.M.C. 19.

(2) Filing insurance with the Commission covering its rolling equipment or by providing other security for the protection of the public, as provided by Rule R2-36.

(3) In the case of common and contract carriers, filing tariffs and schedules of rates and charges to be made for the transportation service authorized, as provided by Rule R2-16.

(b) Unless a common or contract carrier complies with the foregoing requirements and begins operating, as authorized, within a period of thirty (30) days after the Commission's order approving the application becomes final, unless the time is extended in writing by the Commission upon written request, the operating rights therein granted will cease and determine.

Rule R2-23. Registration of Vehicles.-Amend paragraph (a) to read as follows:

(a) Before beginning operations as a common carrier or as a contract carrier or as an exempt for hire passenger carrier all vehicles to be used in the operation must be registered with the Commission.

Article 9.

Miscellaneous.

Rule R2-42. Inspection of vehicles, books, records, etc.-Amend paragraph (b) to read as follows:

(b) Representatives of the Commission authorized to make inspections under the provisions of the Act and these rules shall be provided with a Card of Identification. They shall have the right at any time to enter into or upon any motor vehicle being operated under the Act, and to which these rules apply, including exempt for hire passenger vehicles, for the purpose of ascertaining whether or not the provisions of the law and these rules are being complied with. Wilful refusal of any carrier or driver of any such motor vehicle to stop or discontinue the use of any such motor vehicle until properly conditioned, when ordered to do so by any such representative, or to permit such representative to enter into or upon the same for the purpose aforesaid, shall be sufficient ground for the revocation of the violator's certificate or permit or exemption certificate, as the case may be. Inspectors shall report all irregularities under this rule to the Commission. The Commission's jurisdiction under this rule is extended to include bus stations, carriers' offices and garages.

Amend Rule R2-46 to read as follows:

Rule R2-46. Safety rules and regulations.-The rules and regulations relating to safety of operation and equipment adopted by the U.S. Department of Transportation (formerly I.C.C. Motor Carrier Safety Regulations), as amended from time to time, shall apply to all motor carriers authorized by the North Carolina Utilities Commission, including exempt for hire passenger carriers, or by the Interstate Commerce Commission to operate over the highways of the State of North Carolina, provided that §291.2(a)(1) be amended by changing the period at the end thereof to a semicolon and by adding the following: "provided, that these requirements shall not apply to any driver who has been issued a

chauffeur's license by the North Carolina Department of Motor Vehicles and who drives wholly within a radius of ten miles from the garage or terminal at which he reports for work." (These rules may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. When ordering copies of said rules, ask for Department of Transportation Motor Carrier Safety Regulations.)

Article 11.

Specific Rules Applicable Only to Motor Passenger Carriers.

Amend lead paragraph of Rule R2-65 to read as follows:

Rule R2-65. Other bus safety requirements.-In addition to the general and specific safety regulations adopted and published by the U.S. Department of Transportation and adopted for application to carriers engaged in intrastate commerce in North Carolina by Rule R2-46, the following safety regulations shall be observed by all such carriers, including exempt for hire passenger carriers:

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of October, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 15

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Adoption of Uniform System of Accounts for Union Bus Terminals) ORDER)

BY THE COMMISSION: By notice of rule-making procedure issued October 25, 1967, the Commission gave notice to all union bus terminal operators of the proposed adoption of rules and regulations by the North Carolina Utilities Commission applicable to the uniform system of accounts, as set forth in detail in the attachment to said order; and the Commission further invited any interested party to submit to it by November 6, 1967, any comments, objections, etc., to the proposed uniform system of accounts.

The Commission after consideration of such relevant matter as was submitted by interested persons, is of the opinion and finds that the system of accounts should be approved and that this rule is required in the public interest.

THEREFORE, IT IS ORDERED, That the Commission's Rules and Regulations are hereby amended to include a new rule as Rule R11-1, under Chapter 11, Union Bus Terminals, to read as follows:

Rule R11-1. Uniform System of Accounts - All union bus terminal operators are required to keep their accounts and records in conformity with the Uniform System of Accounts for Union Bus Terminals as adopted by this Commission.

IT IS FURTHER ORDERED, That this uniform system of accounts shall be effective January 1, 1968.

IT IS FURTHER ORDERED, That a copy of this Order be sent to each union bus terminal operator subject to the Commission's jurisdiction in North Carolina.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rates and charges of natural gas distribution companies operating within the State of North Carolina and disposition of refunds to said companies by Transcontinental Gas Pipe Line Co.	) SUPPLEMENTAL ORDER) REQUIRING PLANS) FOR FUTHER) REFUNDS

BY THE COMMISSION: By order of December 11, 1962, the Commission required each natural gas company under its jurisdiction to report and account in detail for refunds from Transco of money previously paid to it for purchased gas. The Commission further ordered all such refunds held in a restricted account subject to disposition at its direction or approval. In excess of $1,000,000 has been distributed to consumers on order of the Commission since 1963.

The aggregate accumulated total now subject to distribution on an order of the Commission for all natural gas utilities subject to its jurisdiction is $981,000. The Commission is of the opinion that such funds now should be distributed to the customers of the operating companies.

Accordingly, IT IS ORDERED

1. That each natural gas company under jurisdiction of the North Carolina Utilities Commission file for approval

individual plans, accompanied by supporting documents, for making further refunds to their customers in accordance with the procedure hereinafter provided.

2. The amounts accumulated in restricted Account No. 253 shall be refunded to firm customers in the ratio of revenues received in 1966 from each class of such service. The refund rate per Mcf shall be determined by dividing the above dollar amounts by an estimated two month volume for the period beginning March 1, 1967, for each firm rate classification.

3. The product of the refund rate and volume actually used shall be credited on the bill of each active firm customer for the period beginning March 1 for a two months' billing period.

4. The plans herein directed shall be filed with the Commission on or before February 1, 1967.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Rates and charges of natural gas distribution companies operating within the State of North Carolina and disposition of refunds to said companies by transcontinental Gas Pipe Line Corporation	ORDER APPROVING REFUND PLAN FILED BY CAROLINA NATURAL GAS CORPORATION IN COMPLIANCE WITH THE COMMISSION'S ORDER DATED JANUARY 18, 1967

Pursuant to the order issued by the Commission in this docket on December 11, 1962, Carolina Natural Gas Corporation (Carolina) has accumulated additional refunds from producer settlements in Restricted Account No. 253 in the amount of $58,263. The Commission by order issued January 18, 1967, ordered all natural gas utilities subject to its jurisdiction in North Carolina to refund the dollars now accumulated in the Restricted Account to its customers based on a plan as delineated in said order. On January 24, 1967, pursuant to that order Carolina submitted a schedule showing the distribution of these refunds and the refund rate applicable to each rate class as follows:

Rate No.	Description	Refund Applicable to Each Classification	No. of Customers Billed in December, 1966	Refund Rate Cents/ccf
1	Commercial	$21,490	1,664	1.6822
2	Residential	22,570	5,198	1.6780
2-A	Residential Heating Only	4,487	1,135	1.3605
3	Firm Industrial	9,696	58	1.0761
9	Public Schools	20	3	.2472
		$58,263	8,058	

Carolina proposes to determine the refund to each customer by applying the applicable refund rate to the actual volumes used by each customer within the 30-day billing cycle beginning on or about March 1, 1967. The amounts so determined will be credited on customers' bills.

After due consideration of the refund plan as filed by Carolina, the Commission is of the opinion that the plan is fair and equitable.

IT IS, THEREFORE, ORDERED that Carolina Natural Gas Corporation be and is hereby authorized to refund to its customers pursuant to the plan as filed and as described herein.

IT IS FURTHER ORDERED that Carolina Natural shall file with this Commission a statement showing the disposition of funds pursuant to this order on or before May 1, 1967.

IT IS FURTHER ORDERED that the Commission's order in this docket issued on December 11, 1962, shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rates and charges of natural gas distribution companies operating within the State of North Carolina and disposition of refunds to said companies by Transcontinental Gas Pipe Line Corporation	) ORDER APPROVING REFUND PLAN FILED BY NORTH CAROLINA GAS SERVICE IN COMPLIANCE WITH THE COMMISSION'S ORDER DATED JANUARY 18, 1967

Pursuant to the order issued by the Commission in this docket on December 11, 1962, North Carolina Gas Service has accumulated additional refunds from producer settlements in Restricted Account No. 253 in the amount of $33,007.40. The Commission by order issued January 18, 1967, ordered all natural gas utilities subject to its jurisdiction in North Carolina to refund the dollars now accumulated in the Restricted Account to its customers based on a plan as delineated in said order. On January 30, 1967, pursuant to that order North Carolina Gas Service submitted a schedule showing the distribution of these refunds and the refund rate applicable to each rate class as follows:

Class	Refund	Proposed Refund Per MCF
Dom.	$24,309.95	$.13
Com.	7,040.48	.17
Ind.	1,656.97	.07
	$33,007.40	

North Carolina Gas Service proposes to determine the refund to each customer by applying the applicable refund rate to the actual volumes used by each customer within a two-month billing period beginning or about February 15, 1967. The amounts so determined will be credited on customers' bills.

After due consideration of the refund plan as filed by North Carolina Gas Service, the Commission is of the opinion that the plan is fair and equitable.

IT IS, THEREFORE, ORDERED that North Carolina Gas Service be and is hereby authorized to refund to its customers pursuant to the plan as filed and as described herein.

IT IS FURTHER ORDERED that North Carolina Gas Service shall file with this Commission a statement showing the disposition of funds pursuant to this order on or before May 15, 1967.

IT IS FURTHER ORDERED that the Commission's order in this docket issued on December 11, 1962, shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Rates and charges of natural gas distribution companies operating within the State of North Carolina and disposition of refunds to said companies by Transcontinental Gas Pipe Line Corporation	) ORDER APPROVING PLAN FILED) BY NORTH CAROLINA NATURAL) GAS CORPORATION IN COMPLI-) ANCE WITH THE COMMISSION'S) ORDER DATED JANUARY 18,) 1967

Pursuant to the order issued by the Commission in this docket on December 11, 1962, North Carolina Natural Gas Corporation (North Carolina) has accumulated refunds from producer settlements in the Restricted Account No. 253 in the amount of $77,846.55. The Commission by order dated January 18, 1967, directed each natural gas company in North Carolina to file for its approval a plan for making refunds of the amount accumulated to date to consumers and in its order provided a plan for accomplishing same.

Pursuant to that order on January 27, 1967, North Carolina filed its plan under which it proposed to withdraw effective April 1, 1967, Rate Schedule T6, Low Rental Housing Service, and Promotional Riders A and B attached thereto and Rate Schedule T9, Service to Public Housing Authorities, which rate schedules are presently effective in the territories formerly served by Tidewater Natural Gas Company (Wilmington, Kinston, Fayetteville, New Bern, and Washington, N.C.) and effective April 1, 1967, to bill for such service in such territories on North Carolina Natural Gas Corporation's Rate Schedule No. 12, Service to Public Authority Housing Projects. The effect of this proposal will reduce rates to public housing authorities throughout former Tidewater territories in the amount of $60,709 annually.

North Carolina secondly proposes effective April 1, 1968, to withdraw and cancel all remaining schedules of the former Tidewater Natural Gas Company still in effect and to institute billing on the appropriate rate schedules of North Carolina throughout former Tidewater properties. North Carolina further requests that the Commission release from the restricted account the amount of $77,846.55.

It has been the desire of the Commission since the acquisition of the Tidewater properties by North Carolina to establish a uniform rate structure throughout the territory served by North Carolina. North Carolina has within the past year filed rate reductions in this direction. This proposal as now filed will establish a uniform rate structure throughout North Carolina Natural's territory by April 1, 1968.

The Commission is of the opinion that the proposal as submitted should be approved.

IT IS, THEREFORE, ORDERED:

1. That North Carolina Natural Gas Corporation's Rate Schedule T6, Low Rental Housing Service and Promotional Riders attached thereto and Rate Schedule T9, Service to Public Housing Authorities, be and are hereby terminated and canceled effective April 1, 1967.

2. IT IS FURTHER ORDERED that effective April 1, 1968, all the remaining rate schedules of Tidewater Natural Gas Company be and are hereby terminated and canceled.

3. IT IS FURTHER ORDERED that 30 days prior to April 1, 1968, North Carolina Natural Gas Corporation shall file a statement reflecting the reductions as proposed by Paragraph 2 above on an annual basis.

4. IT IS FURTHER ORDERED that North Carolina Natural Gas Corporation shall make the necessary tariff filings as required by this order.

5. IT IS FURTHER ORDERED that North Carolina Natural be and is hereby authorized to remove from the Restricted Account No. 253 the amount of $77,846.55 to be used for its corporate purposes.

6. IT IS FURTHER ORDERED that the Commission's order in this docket issued on December 11, 1962, shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rates and charges of natural gas distribution companies operating within the State of North Carolina and disposition of refunds to said companies by Transcontinental Gas Pipe Line Corporation	) ORDER APPROVING REFUND PLAN FILED BY PIEDMONT NATURAL GAS COMPANY, INC., IN COMPLIANCE WITH THE COMMISSION'S ORDER DATED JANUARY 18, 1967

Pursuant to the order issued by the Commission in this docket on December 11, 1962, Piedmont Natural Gas Company,

Inc. (Piedmont), has accumulated additional refunds from producer settlements in Restricted Account No. 253 in the amount of $476,525.46 of which $378,167.90 is applicable to its North Carolina properties. The Commission by order issued January 18, 1967, ordered all natural gas utilities subject to its jurisdiction in North Carolina to refund the dollars now accumulated in the Restricted Account to its customers based on a plan as delineated in said order. On January 31, 1967, pursuant to that order Piedmont submitted a schedule showing the distribution of these refunds and the refund rate applicable to each rate class as follows:

Class	Refund	Proposed Refund Cents per CCF
Residential	$266,378	1.09
Commercial	129,138	1.02
Industrial Firm	69,096	.75
Public Housing	11,913	.97
	$476,525	

Piedmont proposes to determine the refund to each customer by applying the applicable refund rate to the actual volumes used by each customer within a two-month billing period beginning on or about March 1, 1967. The amounts so determined will be credited on customers' bills.

After due consideration of the refund plan as filed by Piedmont, the Commission is of the opinion that the plan is fair and equitable.

IT IS, THEREFORE, ORDERED that Piedmont Natural Gas Company, Inc., be and is hereby authorized to refund to its customers pursuant to the plan as filed and as described herein.

IT IS FURTHER ORDERED that Piedmont Natural Gas Company, Inc., shall file with this Commission a statement showing the disposition of funds pursuant to this order on or before May 30, 1967.

IT IS FURTHER ORDERED that the Commission's order in this docket issued on December 11, 1862, shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Rates and charges of natural gas distribution companies operating within the State of North Carolina and disposition of refunds to said companies by Transcontinental Gas Pipe Line Corporation	) ORDER APPROVING REFUND PLAN FILED BY PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC., IN COMPLIANCE WITH THE COMMISSION'S ORDER DATED JANUARY 18, 1967

Pursuant to the order issued by the Commission in this docket on December 11, 1962, Public Service Company of North Carolina, Inc. (Public Service), has accumulated additional refunds from producer settlements in Restricted Account No. 253 in the amount of $413,006.47. The Commission by order issued January 18, 1967, ordered all natural gas utilities subject to its jurisdiction in North Carolina to refund the dollars now accumulated in Restricted Account to its customers based on a plan as delineated in said order. On January 31, 1967, pursuant to that order Public Service submitted a schedule showing the distribution of these refunds and the refund rate applicable to each rate class as follows:

Class	Amount of Refund	Refund Factor Per MCF
Residential	$218,852.13	15.686¢
Commercial and Firm Industrial	162,022.44	12.658¢
Firm Industrial - Rate 7	2,478.04	3.153¢
Firm Industrial - Rate 10	29,653.86	6.726¢
	$413,006.47	

Public Service proposes to determine the refund to each customer by applying the applicable refund rate to the actual volumes used by each customer within a two-month billing period beginning on or about March 1, 1967. The amounts so determined will be credited on customers' bills.

After due consideration of the refund plan as filed by Public Service, the Commission is of the opinion that the plan is fair and equitable.

IT IS, THEREFORE, ORDERED that Public Service Company of North Carolina, Inc., be and is hereby authorized to refund to its customers pursuant to the plan as filed and as described herein.

IT IS FURTHER ORDERED that Public Service Company of North Carolina, Inc., shall file with this Commission a statement

showing the disposition of funds pursuant to this order on or before May 30, 1967.

IT IS FURTHER ORDERED that the Commission's order in this docket issued on December 11, 1962, shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Adoption of Rules and Regulations Governing)
Territorial Rights and Natural Gas Companies and) ORDER
Legal Constructions Applicable to G.S. 62-110)

BY THE COMMISSION: On June 16, 1966, the North Carolina Utilities Commission gave notice to all natural gas transmission and distributing companies operating under its jurisdiction of proposed rules and regulations to permit and promote planning of natural gas facilities on a statewide basis in the following circumstances:

(a) Where natural gas service is to be provided within a company's authorized territory but near the transmission facilities of another company traversing the territory;

(b) Where the nature and extent of public demand and need or economic feasibility characteristics change subsequent to assignment of territory to a particular utility, so as to require changing territorial boundaries;

(c) Where dependence of the distributing companies on their interstate pipeline supplier requires pipeline construction, jointly or severally for interconnection, which construction may result in duplication of facilities;

(d) Where territorial boundary maps on file with the Commission designate area for service by one utility with projected construction into such areas by a company not designated to serve it;

(e) Where, in considering applications to initiate service, or discontinue or reduce service, it is necessary for the Commission to construe G.S. 62-110,

particularly the proviso that no certificate need be obtained for construction into contiguous territory "not receiving similar service from another public utility nor to construction in the ordinary course of business." (emphasis added)

The Commission requested all interested parties to submit by July 1, 1966, data, views, comments, or objections in writing to the rules and regulations as proposed in said order. The Commission received written statements from the following gas utilities: Carolina Natural Gas Corporation, North Carolina Natural Gas Corporation, North Carolina Gas Service, Piedmont Natural Gas Company, Inc., Public Service Company of North Carolina, Inc., and United Cities Gas Company. In addition, the Commission received comments from the North Carolina Gas Association. After consideration of the views submitted, the Commission is of the opinion that its rules and regulations should be amended by adding thereto the additional rules set out in the ordering paragraphs below.

IT IS, THEREFORE, ORDERED that the Rules and Regulations of the Commission be and are hereby amended by adding at the end of Chapter 6 thereof a new Article 9 entitled "Service Area," to read as follows:

"ARTICLE 9

Service Areas

Rule R6-60. Construction into Contiguous Occupied Territory. No natural gas utility shall construct or operate natural gas facilities in territory occupied by and receiving similar service from another natural gas utility except upon written notice to the Commission and to the company occupying and serving the territory, opportunity for public hearing, and written approval by the Commission. Territory which has been assigned to a natural gas utility by the Commission shall be presumed occupied by it and receiving similar service from it, subject to a finding by the Commission that the authorized natural gas utility has waived or disclaimed its right to serve, or that it is not feasible for the authorized company to serve, or that service by the authorized company would be less feasible than for the applicant, or that existing service by the authorized company is inadequate or inferior and that the authorized company reasonably will not or cannot render adequate service.

Rule R6-61. Construction of Pipeline Facilities. No natural gas utility under the jurisdiction of the Commission shall construct or operate a natural gas pipeline facility outside its designated territory or to be connected to an interstate pipeline, including looping of present facilities, from an interstate supplier without having first applied in writing to, and obtained the written approval of, the Commission. Such application shall clearly show that

the construction proposed is economically and financially feasible, and will not be wastefully duplicative of existing or proposed construction by any other supplier of natural gas in the state, will not constitute an unfair burden upon applicant's customers in the state, and is in the public interest generally.

If the proposed pipeline facility is within a company's designated territory and is to a community for initial service, the natural gas utility shall notify the Commission in writing before entering upon construction or operation of the facility.

Rule R6-62. Service from Facilities in Another Gas Utility's Territory. Where a natural gas pipeline constructed, owned, or operated by a natural gas utility subject to jurisdiction of the Commission traverses territory or area designated by the Commission as the authorized territory or service area of another natural gas utility regulated by the Commission and either of said companies finds it necessary or desirable to furnish natural gas for domestic, commercial, industrial, or farm use within an area adjacent to said pipeline and within the boundaries of the territory traversed by the pipeline, the owner of the pipeline shall install the meters, regulators, and taps necessary to furnish the service and shall deliver the natural gas to the company in whose territory or area the pipeline is located at rates and under regulations from time to time filed with and approved by the Commission, and the gas utility having authority to serve in the designated area shall have opportunity to sell and to service said domestic, commercial, industrial, or farm customers."

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Amendment of Rules and Regulations Affecting the)
Safety of Natural Gas Pipelines in the State of) ORDER
North Carolina)

BY THE COMMISSION: By order issued August 19, 1966, the Commission gave notice to all natural gas transmission and distribution companies operating in North Carolina of the proposed adoption of rules and regulations by the North Carolina Utilities Commission applicable to the safety of

natural gas pipelines in this State, as set forth in detail in the attachments to said order.

In Docket No. G-100, Sub 3, the Commission, acting under the authority of G.S. 62-31, G.S. 62-41, and G.S. 62-43(b), issued an order on November 12, 1962, adopting as standards of accepted good practice the current edition of the American Standard Association (now United States of America Standards Institute) Code for "Gas Transmission and Distribution Piping Systems," ASA B31.8, and various rules and regulations each relating to the safety of gas pipelines in the State in the protection of the public, the gas consummer, and gas utility employees. (NCUC Rule R6-21).

The Commission by instituting the proposed rulemaking herein is of the opinion that its rules should be reviewed, amended, and supplemented where necessary in the interest of greater assurances of safety, prevention of accidents, and the promulgation of higher standards of quality.

The Commission proposal to amend, change, and supplement the ASA B31.8 Code for "Gas Transmission and Distribution Piping Systems" for application in North Carolina and the rules aforesaid as particularized in its order of August 19, 1966, was sent to each natural gas company operating in North Carolina; and the Commission further invited any interested person to submit to it by September 28, 1966, its data, views, comments, or objections in writing concerning the amendments proposed therein.

Comments to the proposed amendments were received from the following natural gas companies operating in this State: North Carolina Natural Gas Corporation, Pennsylvania & Southern Gas Company, Piedmont Natural Gas Company, Inc., Public Service Company of North Carolina, Inc., and United Cities Gas Company.

The Commission, acting under its authority cited above and after giving full consideration to all the comments received from gas utilities in the State, is of the opinion that its present rules and regulations, its present reporting procedures, and the present use of the current edition of USAS B31.8 "Gas Transmission and Distribution Piping Systems, USA Standard Code for Pressure Piping," should be modified as hereinafter set forth in order to further protect the public, the gas consumers, and the gas utility employees of this State.

IT IS, THEREFORE, ORDERED:

(1) That Chapter 6 of the Commission's Rules and Regulations is hereby amended by renumbering present Rule R6-43, Uniform System of Accounts, to Rule R6-70 in a new Article 9, Accounting System, and by inserting a new rule as Rule R6-43 under Article 8, Safety, to read as follows:

"Rule R6-43. Statement of compliance with safety standards. Every gas coporation transmitting gas by any pipeline or main tended to be subjected to pressures in excess of 100 psig shall:

"(a) Within 120 days from the date of service of this order file with the North Carolina Utilities Commission a statement verified by an officer, setting forth the respects in which such pipeline or main and its appurtenances conform or do not conform, as the case may be, to the standards, requirements, and safeguards enumerated in the Rules and Regulations and as herein adopted and revised in USAS Code B31.8 as modified herein for North Carolina. Such statement shall be based upon records of the gas corporation, including records of tests, specifications or other available data, and upon current investigations and surveys, not requiring excavation or interruption of service.

"(b) In each instance where any gas corporation required by paragraph (1) to file a verified statement claims that it is not possible or practicable to obtain the necessary data to prepare the same, a verified statement setting forth such claim shall nevertheless be filed within the period required by paragraph (1), and the basis for such claim shall be set forth in such verified statement.

"(c) In each instance in which the verified statement required to be filed by this section states that any portion of such pipeline or main or its appurtenances does not conform to the standards, requirements and safeguards enumerated in these rules or that it is not possible or practicable to obtain the necessary data to prepare such a statement, the verified statement shall state whether or not in the opinion of the officer verifying the same, such portion of pipeline and its appurtenances is in safe operating condition.

"(d) In each instance where it is stated that such pipeline or main or its appurtenances or any portion thereof is in safe operating condition, the basis for such statement shall be set forth including the operating conditions under which the opinion is expressed."

(2) That Chapter 6 of the Rules and Regulations heretofore adopted by the Commission for natural gas be and is hereby amended as set forth in Appendix A attached hereto and made a part of this order.

(3) That the current 1967 edition of the USA Standard Code for Pressure Piping, "Gas Transmission and Distribution Piping Systems," B31.8, heretofore adopted by the Commission as a standard of accepted good engineering practice under Rule R6-21(1) be and is hereby modified and amended as hereinafter set forth in Appendix B and made a part hereof.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

APPENDIX A

Chapter 6 of the Rules and Regulations of the North Carolina Utilities Commission is hereby amended as follows:

Amendment #1. Amend Rule R6-5 by rewriting subparagraph (10) thereof to read as follows:

"Rule R6-5 (10). Records. - The responsibility for the maintenance of necessary records to establish that compliance with these Rules has been accomplished rests with the utility. Such records shall be available for inspection at all times by the Commission or the Commission's staff."

Amendment #2. Amend Rule R6-5 by adding two new subparagraphs at the end thereof to read as follows:

"Rule R6-5 (12). Reports of Proposed Construction. - (a) At least 30 days prior to the construction or major reconstruction of any gas pipeline or main intended to be subjected to pressures in excess of 100 psig, a report shall be filed with the North Carolina Utilities Commission setting forth the specifications for such pipeline or main.

"(b) The Commission shall be advised with at least 24 hours' notice prior to the testing of any gas pipeline or main intended to be subjected to pressures in excess of 100 psig.

"(c) Within 60 days after the construction of any gas pipeline or main intended to be subjected to pressures in excess of 100 psig is placed in operation, a report shall be filed with the North Carolina Utilities Commission certifying the maximum pressure to which the line is intended to be subjected and also certifying that the pipeline has been constructed and tested in accordance with the requirements of the rules herein prescribed, which report shall include the results of all tests made pursuant thereto. No gas pipeline shall be operated at pressures in excess of the pressure for which it was certified to the North Carolina Utilities Commission."

"Rule R6-5 (13). Periodic Studies. - Periodic studies of pipelines or mains intended to be subjected to pressures in excess of 100 psig, the nature and extent of which shall first be submitted to the Commission for its approval, shall be conducted with respect to all facilities intended to operate in excess of 100 psig or more at intervals of not more than 10 years. These studies shall be filed with the North Carolina Utilities Commission with the recommendations of the utilities."

Amendment #3. Amend Rule R6-21 by adding a new subparagraph at the end thereof to read as follows:

"Rule R6-21 (7). 'Purging Principles and Practices,' American Gas Association."

Amendment #4. Amend Rule R6-36 by rewriting said rule to read as follows:

"Rule R6-36. Interruptions of Service. - (a) Each utility, except where interruptions are permitted by tariff or contract, shall make reasonable efforts to avoid interruptions of service; but when interruptions occur, service shall be reestablished within the shortest time practicable, consistent with safety.

"(b) Each utility shall keep records of interruptions of service on its system and shall make an analysis of the records for the purpose of determining steps to be taken to prevent recurrence of such interruptions. Such records should include the following concerning the interruptions:

1. Cause.
2. Date and time.
3. Duration.
4. Location affected.
5. Number of customers affected.

"(c) Each utility shall notify the Commission by telephone or telegraph of any interruption of service to a major portion of its system.

"(d) A detailed, written report on each interruption of service shall be filed within 30 days following the notice required in (c) above.

"(e) Planned interruptions shall be made at a time that will not cause unreasonable inconvenience to customers and shall be preceded by adequate notice to those who will be affected."

Amendment #5. Amend Article 8, Safety, by adding three new rules at the end thereof to read as follows:

"Rule R6-44. Corrosion Control. - (a) Every gas corporation shall make a proper investigation to determine whether any gas pipeline or main to be operated with pressures in excess of 20% of specified minimum yield strength requires corrosion protection and if so required, a recognized method or combination of methods shall be followed including coating with protective material, the application of cathodic current and the installation of galvanic anodes and electrical insulation by sections.

"(b) Whenever any gas corporation finds upon such investigation that corrosion protection of gas mains or pipelines is not needed, such corporation shall submit to

the North Carolina Utilities Commission a report setting forth good and sufficient reasons why such protection is not required, such report to include the results of soil tests and other supporting data.

"(c) Whenever pipe coating is applied, the following additional precautions shall be taken:

"(1) Tests and inspections shall be made before backfill to insure that the coating is adequate and satisfactory.

"(2) During backfill, precautions shall be taken to insure that the coating is not damaged.

"(d) In addition to the foregoing, every gas corporation shall make periodic inspections and tests of any gas main or pipeline at reasonable intervals to determine whether or not the pipe metal is adequately protected against corrosion."

"Rule R6-45. Inspection and Test of Welds on Piping Systems Intended to Operate at 20% or More of Specified Minimum Yield Strength. - On pipelines or mains operating or intended to be operated at hoop stresses at 20% or more of specified minimum yield strength the quality of the welding shall be checked by nondestruction testing including visual inspection or by destruction testing to determine that the welds conform to the standards of acceptability of this Code. The extent of weld inspection shall be sufficient to establish that the performance of each welder is sampled.

"The following minimum inspections shall be made:

100% of welds at tie-ins, rivers, highways, railroad crossings, and taps to pipelines.
100% of the welds in Class 4 location.
40% of the welds in Class 3 location.
15% of the welds in Class 2 location.
10% of the welds in Class 1 location.

A record shall be made of the results of the tests and the method employed.

"Welder Qualifications. - No welder shall be used on pipelines or mains that operate or are intended to be operated at hoop stresses at 20% or more of specified minimum yield strength unless qualified within the preceding year."

"Rule R6-46. Changes in Population Density. - (a) Where observed increases in population density in the vicinity of existing steel pipelines or mains operating at hoop stress levels in excess of 40% of specified minimum yield strength indicate a probable change in location class since the original installation or where detailed population index surveys or other studies indicate that the construction type for such existing pipelines or mains is not commensurate

with the existing location class, a study shall be initiated to determine the following:

"(1) The design, construction, and testing procedures followed in the original construction and a comparison of such procedures with the applicable provisions of this Code.

"(2) The actual physical condition of the pipeline or main to the extent that this can be ascertained from available records.

"(3) Operating and maintenance history of the pipeline or main.

"(4) The maximum actual operating pressure and operating hoop stress level in the section of the pipeline directly affected by the location class change.

"(5) The actual area affected by the observed population density increase and physical barriers or other factors which may limit the further expansion of the more densely populated area.

"(b) If the results of the study described in Rule R6-46 (a) indicate that further verification of the established operating pressure is necessary, the section directly affected by the location class change shall be retested in the same manner as a new pipeline would be if it were to be installed in accordance with this Code in the same location. If the section directly involved is retested as provided herein, no change need be made in the operating pressure levels. If the section directly involved cannot be taken out of service for the purpose of a retest, then the company shall file a statement with the North Carolina Utilities Commission setting forth the safe maximum operating pressure for said section with all supporting detail.

"(c) No change is required in the operating pressure levels of existing pipelines after the completion of the study described in Rule R6-46(a) if the section of the pipeline affected by the location class change is in satisfactory physical condition and if:

"(1) The section directly affected was tested on some previous occasion at pressures equal to or higher than the minimum pressures specified for new pipelines having the same maximum allowable operating pressure in the new location class; or

"(2) The maximum actual operating pressure (taking pressure drop into account) in the section directly affected is such that the resulting hoop stress level is equal to or less than that permitted for new pipelines in the same location class.

"(d) Whenever any planned repairs or planned replacements of sections of pipe are scheduled in areas where the location class has changed, the design, construction, and testing procedures shall be those specified for the new pipelines in the same location class."

APPENDIX B

Rule R6-21(1) of the Rules and Regulations of the Commission is hereby amended by adding at the end thereof the following:

"Provided, that the said current edition of 'Gas Transmission and Distribution Piping System,' USAS B31.8, 1967 Edition, is hereby modified for application in North Carolina by amending the respective paragraphs of said Code as follows:

"821.3	Change 'These standards are based on the principle that a welding procedure has been established and qualified' to 'Each utility shall establish and qualify a welding procedure.'
827.1	Lines 6 and 7, delete 'may' and change 'be advisable' to 'is required'.
841.016	Delete second paragraph.
841.16(e)	Change 'or bridged' to ', bridged or designed to withstand any such anticipated external loads'.
841.162	Delete all but the first sentence.
841.163	On lines 2 and 3 change 'There should be at least 2 inches clearance whenever possible' to 'Whenever conditions permit, there shall be at least 12 inches clearance' and, on line 5, delete 'not used in conjunction with the pipeline or main'.
841.222	Line 4, change 'should' to 'shall'. Delete 'either'. On line 5, change 'or' to 'and'.
841.23	Change 'may' to 'shall'.
841.241(a)	Line 6, change 'recommended' to 'required'.
841.271	Line 2, change 'should' to 'shall'.
841.31	At the very end, add 'However, welds on tie-in sections of pipe shall be inspected and tested as required in 828.2.'
841.412(a)	Line 2, delete 'either'. On line 3, change 'gas' to 'water', and change '1.1' to '1.25'.

Delete from 'or' on line 3 through 'pressure' on line 5.

841.412(b) Line 2, delete 'either', insert 'or water' after 'air' and change '1.25' to '1.50'. Delete from 'or' on line 3 through 'pressure' on line 4.

841.412(c) Line 3, change '1.4' to '1.50'.

841.412(d) Change table as follows:

TABLE 841.412(d)

Test Requirements for Pipelines and Mains to Operate at Hoop Stresses of 30% or More of the Specified Minimum Yield Strength of the Pipe

1	2	3
Location Class	Permissible Test Fluid	Prescribed Test Pressure Minimum
1	Water	1.25 x m.o.p.
	Air	1.25 x m.o.p.
2	Water	1.50 x m.o.p.
	Air	1.25 x m.o.p.
3	Water	1.50 x m.o.p.
4	Water	1.50 x m.o.p.

m.o.p. = maximum operating pressure

Note: If an operating company decides that the maximum operating pressure will be less than the design pressure a corresponding reduction in prescribed test pressure may be made as indicated in Column 3. However, if this reduced test pressure is used the maximum operating pressure cannot later be raised to the design pressure without retesting the line. See 845.22 and 845.23.

841.412(e) Add 841.412(e) - 'Test pressure shall be maintained until the pressure has stablized in all portions of the test sections. In no event shall the duration of the test be less than 24 hours following such stablilization except that, in the case of a short length of pipeline, main, or piping which has not been backfilled prior to the test where, throughout its entire length, its entire circumference can be readily examined visually for the detection of leakage, the duration of the test shall be

not less than 4 hours following such stablilizations.'

841.412(f) 'Where water is utilized as the test medium, adequate provisions shall be made for disposal of the water and steps shall be taken to guard against contamination of local water supply.'

841.413(c) Line 1, change '1.1' to '1.25'. Delete from 'and' on line 2 through 'apply' on line 4.

841.416 Delete in entirety.

841.42 Change as shown below (underscored matter indicates italics):

'Tests required to prove strength for pipelines and mains to operate at less than 30% of the specified minimum yield strength of the pipe, but in excess of 100 psi. Steel piping that is to operate at stresses less than 30% of the specified minimum yield strength* shall be tested in accordance with Table 841.412(d), except that gas or air may be used as the test medium within the maximum limits set in Table 841.421.

TABLE 841.421

Maximum Hoop Stress Permissible During Test

Percent of Specified Minimum Yield Strength

Location Class	1**	2	3	4
Test Medium				
Air	75**	75	50	40
Gas	30**	30	30	30

*Material deleted at this point.

**Material added at this point.

845.22(b)

Class No. Location	Pressure
1	Test Pressure 1.25
2	Test Pressure 1.50 Water 1.25 Air [1]
3	Test Pressure 1.50 [1]
4	Test Pressure 1.50

---

[1] Other factors than 1.5 should be used if the line was tested under the special conditions described in 841.413 and 841.42. In such cases use factors that are consistent with the applicable requirements of these sections.'

850.4 Lines 2, change 'should' to 'shall'.

851.1 Lines 2 and 11, change 'should' to 'shall'.

851.3 Lines 5 and 10, change 'should' to 'shall'.

"Provided, further, that in case of any conflict between the provisions of this USA Code B31.8 and any other rule or regulation of the Commission, said other rule or regulation of the Commission shall prevail."

DOCKET NO. G-100, SUB 8

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Adoption of Rule Establishing Requirements) ORDER
for Depreciation Studies for Gas Utilities)

On February 16, 1967, the Commission, pursuant to G.S. 62-31 and G.S. 62-35(c), gave notice to all North Carolina gas utilities subject to its jurisdiction that it had under consideration for adoption the following rule:

"Rule R6-47. Requirement for Depreciation Studies. - Each natural gas utility having gross depreciable plant of $10,000,000 or more shall make depreciation studies at least once every third year; utilities with less than $10,000,000 of gross depreciable plant shall make depreciation studies at least once every five years. Depreciation rates determined as a result of these studies shall be submitted to the Commission for its approval.

"Natural gas utilities not having filed depreciation rates for approval by the Commission within the periods outlined above shall make depreciation studies and file a schedule of depreciation rates for approval in 1967."

This order provided that any interested party might submit in writing on or before March 15, 1967, to the Commission data, views, and comments concerning the proposed rule.

On March 20, 1967, the Commission considered the comments submitted by Piedmont Natural Gas Company, Inc., and North Carolina Natural Gas Corporation, being the only comments received. Piedmont Natural Gas Company, Inc., requested that the requirements for periodic studies for companies having a gross depreciable plant of $10,000,000 or more be extended to a longer period - at least to every five years. North Carolina Natural Gas Corporation requested that if this rule is adopted that it be given until 1968 in which to file its initial depreciation study and rates derived therefrom for approval by the Commission.

After full consideration by the Commission of the above comments, the Commission is of the opinion that the above rule should be adopted and further that North Carolina Natural Gas Corporation be granted relief as requested from its initial filing.

IT IS, THEREFORE, ORDERED that Rule R6-47 as above be and is hereby approved and authorized to become effective on and after date of this order.

IT IS FURTHER ORDERED that North Carolina Natural Gas Corporation shall be granted an extension of time to June 30, 1968, for the initial filing as proposed in Rule R6-47.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Amendment to Rules and Regulations Affecting	)	ORDER
Natural Gas Utilities and Interstate Natural	)	AMENDING
Gas Companies Having Pipeline Facilities in	)	GAS
North Carolina	)	SAFETY RULES

BY THE COMMISSION: The 1967 General Assembly of North Carolina amended the Public Utilities Act by adding a new section as G.S. 62-50 providing safety standards for interstate and intrastate natural gas pipelines located in North Carolina. The Commission's rules and regulations for natural gas service should be amended to apply the new statute as follows:

Rule R6-1. Application of Rules. This rule should make the safety regulations applicable to any gas utility operating within the State of North Carolina under the jurisdiction of the North Carolina Utilities Commission and also to interstate natural gas companies having pipeline facilities located in North Carolina insofar as safety is concerned, as provided in G.S. 62-50.

Rule R6-2(a). The definition of "utility" should be amended to include any gas company operating under the jurisdiction of the Commission, including in the case of safety rules and regulations, any interstate pipeline company subject to the safety jurisdiction of the Commission pursuant to G.S. 62-50.

IT IS, THEREFORE, ORDERED That Chapter 6 of the Commission's rules and regulations is hereby amended as follows:

(1) The first three lines of Rule R6-1 are hereby rewritten to read as follows:

"Rule R6-1. Application of Rules. These rules apply to any gas utility operating within the State of North Carolina under the jurisdiction of the North Carolina Utilities Commission and also to interstate natural gas companies having pipeline facilities located in North Carolina insofar as safety is concerned."

(2) Subsection (a) of Rule R6-2 is hereby rewritten to read as follows:

"Rule R6-2(a). Utility means any gas company operating under the jurisdiction of the Commission including, in the case of safety rules and regulations, any interstate pipeline company subject to the safety jurisdiction of the Commission pursuant to G.S. 62-50."

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of July, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Amendment of Rules and Regulations) ORDER RENUMBERING
Affecting Natural Gas Service in) NATURAL GAS RULES
North Carolina)

BY THE COMMISSION: It appearing that Orders of the Commission have from time to time established inconsistent numbers for newly adopted articles and sections of the natural gas Rules and it further appearing that said articles and sections should be renumbered in a consistent manner for codification in the 1967 Supplement to the Commission Rules,

IT IS, THEREFORE, ORDERED That Chapter 6 of the Commission Rules and Regulations relating to natural gas be amended as follows:

(1) That Article 9, Accounting System, as established by Order of May 31, 1967, in Docket No. G-100, Sub 7, be renumbered as a new Article 10, entitled "Accounting", and that Rule R6-70, Uniform System of Accounts, adopted in Docket No. G-100, Sub 1, February 18, 1960, and previously printed as Rule R6-43 and renumbered in said Docket No. G-100, Sub-7, as Rule R6-70, be placed under said Article 10 as Rule R6-70.

(2) That a further new article be added as Article 11, entitled "Depreciation", and that Rule R6-47, Requirements for Depreciation Studies, adopted in Docket No. G-100, Sub 8, March 23, 1967, be renumbered as Rule R6-80 and be placed in said new Article 11.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of July, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. S-100, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Rules and Regulations in the North Carolina)
Utilities Commission for sewer companies) ORDER
subject to jurisdiction in North Carolina)

BY THE COMMISSION: On July 31, 1967, the North Carolina Utilities Commission sent to each sewer utility operating in North Carolina a copy of its proposed rules and regulations governing sewer companies subject to the jurisdiction of the North Carolina Utilities Commission. The Commission requested that sewer companies submit such comments, objections, etc., to the proposed rules to the Commission.

The Commission, after full consideration of all comments received by sewer companies in North Carolina, is of the opinion that the proposed rules and regulations submitted to all companies under date of July 31, 1967, should be approved and that these rules and regulations are required in the public interest.

IT IS, THEREFORE, ORDERED that the rules and regulations attached hereto, made a part hereof, be and are hereby adopted as the rules and regulations of the North Carolina Utilities Commission applicable to sewer companies in North Carolina.

IT IS FURTHER ORDERED that a copy of this order, along with a copy of the rules and regulations herein adopted be sent to each sewer company subject to the Commission's jurisdiction in North Carolina.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

CHAPTER 10 OF THE RULES AND REGULATIONS OF THE NORTH CAROLINA UTILITIES COMMISSION

CHAPTER 10
SEWER COMPANIES

Rule R10-1. Application of rules.-These rules apply to sewer utilities operating in North Carolina under the jurisdiction of the North Carolina Utilities Commission as defined in Rule R10-2(a) below.

Rule R10-2. Definitions.-(a) Utility.-The term "utility" when used in these rules and regulations includes persons and corporations, or their lessees, trustees, and receivers,

now, or hereafter, furnishing sewer service to the public for compensation. The term "utility" does not include municipalities.

(b) Customers.-The word "customers" as used in these rules shall be construed to mean any person, group of persons, firm, corporation, institution, or other service body furnished sewer service by a sewer utility.

(c) Municipality.-The term "municipality" when used in these rules includes a city, a county, a village, a town, and any other public body existing, created, or organized as a government under the Constitution or laws of the State.

Rule R10-3. Records and reports.-(a) Location and Preservation of Records.-All records shall be kept at the office or offices of the utility in North Carolina and shall be available during regular business hours for examination by the Commission or its duly authorized representatives.

(b) Reports to Commission.-Each utility shall prepare and file an annual report to the Commission in prescribed form, giving required information respecting its general operations. Special reports shall also be made concerning any particular matter upon request by the Commission.

Rule R10-4. Approval of rate schedules, rules and regulations.-(a) Approval Required.-Rates, schedules, rules, regulations, special contracts, and other charges for sewer service shall not become effective until filed with and approved by the Commission.

(b) Manner of Filing.-Tariffs containing all the rates, rules, and regulations of each utility shall be filed in the manner and form prescribed by the Commission.

(c) Utility's Special Rules.

(1) A utility desiring to establish any rule or requirement affecting its customers shall first make application to the Commission for approval of the same, clearly stating in its application the reason for such establishment.

(2) On or after ninety days from the effective date of these rules and regulations any utility's special rules and regulations now on file with the Commission which conflict with these rules will become null and void unless they have been refiled and approved by the Commission.

Rule R10-5. Maps and records.-Each utility shall keep on file in its office suitable maps, plans, and records showing the entire layout of its collecting lines and sewer treatment facilities with the location, size and capacity of each unit of plant, size of each collecting line, and other facilities used in the furnishing of sewerage service.

Rule R10-6. Access to property.-A utility shall at all reasonable times have access to service connections, and other property owned by it on customer's premises for purposes of maintenance and operation, including cutting off sewer service for any of the causes provided for in these rules and regulations or the rules and regulations of the utility.

Rule R10-7. Adequacy of facilities.-(a) Treatment.-All treatment equipment must be sufficiently large to meet all normal and reasonable demands for service.

(b) Collection.-The collection system shall be so designed, constructed, maintained, and operated as to enable each sewer utility to supply its customers with adequate service.

Rule R10-8. Service interruption.-(a) Record.-Each utility shall keep a record of all interruptions of service upon its entire system or major divisions thereof, including a statement of time, duration, and cause of such interruptions.

(b) Notice Required.-Insofar as practical every customer affected shall be notified in advance of any contemplated work which will result in interruption of service of any long duration, but such notice shall not be required in case of interruption due to accident, the elements, public enemies, strikes, which are beyond the control of the utility.

Rule R10-9. Records of accidents.-Each utility shall make and keep a record of each accident happening in connection with the operation of its plant, station, property, and equipment, whereby any person shall have been killed or seriously injured, or any substantial amount of property damaged or destroyed, which report shall be filed with the Commission within sixty (60) days of said accident.

Rule R10-10. Department of Water and Air Resources approval required.-Every sewer utility shall comply with the rules of the North Carolina Department of Water and Air Resources governing construction and operations of its sewer plant.

Rule R10-11. Service connections.-(a) Each sewer utility shall adopt a standard method for installing a sewer service connection, which may be included in the "connection charge." Such method shall be set out with a written description and drawings, together with a schedule of connection charges, to the extent necessary for a clear understanding of the requirements and shall be submitted to the Commission for its approval.

(b) Temporary service shall be installed by mutual agreement.

(c) The customer shall furnish and lay the necessary pipe to make the connection from the property line nearest the utility's sewer line to the point of use and shall keep the service line in good repair. The customer shall not make any change in or rebuild such service line without giving written notice to the utility. All of the foregoing shall be designated as "customer's service line."

(d) In any case where a reasonable doubt exists as to the proper location and size for "customer's service line," the utility shall be consulted and its approval of the location and size of line be secured in writing.

Rule R10-12. Extension plan.-Each utility shall develop a plan, acceptable to the Commission, for the installation of extensions of sewer laterals and service lines where such facilities are in excess of those included in the regular rates for service and for which the customer shall be required to pay all or part of the cost. This plan must be related to the investment that prudently can be made for the probable revenue.

Rule R10-13. Refusal to serve applicants.-(a) Noncompliance with Rules and Regulations.-Any utility may decline to serve an applicant until he has complied with State regulations governing sewer service and the approved rules and regulations of the utility.

(b) Utility's Facilities Inadequate.-Until adequate facilities can be provided, a utility may decline to serve an applicant if, in the best judgment of the utility, it does not have adequate facilities to render service applied for or if the intended use is of a character that is likely to affect unfavorable service to other customers.

(c) Applicant's Recourse.-In the event that the utility shall refuse to serve an applicant under the provisions of this rule, or on other rules incorporated herein, the utility shall inform the applicant of the basis of its refusal, and the applicant may apply to the Commission for a ruling thereon.

(d) Applicant's Facilities Inadequate.-The utility may refuse to serve an applicant if, in its judgment, the applicant's installation of sewer piping is regarded as hazardous or of such character that satisfactory service cannot be given.

Rule R10-14. Deposits from customers.-(a) Security Deposit.

(1) A utility may require from any customer or applicant deposit to secure the payment of bills not to exceed the amount of an estimated 3 months' bill.

(2) In the event that the amount of the deposit is more than five dollars ($5.00), interest shall be paid at the rate of six percent (6%) per annum, payable on return of deposit. Such deposit shall be returned to the customer by the utility upon discontinuance of service and upon payment by the customer of final bill.

(3) A utility shall not be required to pay interest on deposits more than one month after discontinuance of service to the customer.

(4) Temporary service customers shall make such cash deposits as fixed by the rates, rules and regulations of the utility.

(b) Retained Deposit.-Each utility shall provide reasonable ways and means whereby a depositor who makes application for the return of his deposit, or any unpaid balance thereof to which he is entitled, may not be deprived of this deposit or balance in case he is unable to produce the original receipt.

(c) Return of Deposit.-Each utility may, at any time after satisfactory credit is established, return the deposit made by the customer. At that time all accrued interest on the deposit shall also be paid. In the event the customer refuses to accept return of deposit and interest, the utility shall not be liable for the payment of any additional interest on the deposit.

Rule R10-15. Customer's discontinuance of service.-Any customer desiring service discontinued shall give a written notice to the utility unless otherwise incorporated in the rules and regulations of the utility. Until the utility shall have such notice the customer may be held responsible for all service rendered.

Rule 10-16. Utility's discontinuance of service.-(a) Violation of Rules.-Neglect or refusal on the part of a customer to comply with these rules or the utility's rules properly filed with the Commission shall be deemed to be sufficient cause for discontinuance of service on the part of the utility. Whenever sewer service is discontinued for any reason the utility shall send a report of termination of service to the local County Board of Health for compliance with G.S. 130-160.

(b) Access to Property.-The utility shall at all reasonable times have access to service connections, and other property owned by it on customer's premises for purposes of maintenance and operation. Neglect or refusal on the part of the customer to provide reasonable access to their premises for the above purposes shall be deemed to be sufficient cause for discontinuance of service on the part of the utility.

(c) Notice of Discontinuance.-No utility shall discontinue service to any customer for violation of its rules or regulations without first having diligently tried to induce the customer to comply with its rules and regulations. After such effort on the part of the utility, service may be discontinued only after at least five days' written notice excluding Sundays and holidays shall have been given the customer by the utility, provided, however, where an emergency exists or where fraudulent use is detected, or where a dangerous condition is found to exist on the customer's premises, the sewer service may be cut off without such notice.

(d) Disputed Bills.-(a) In the event of a dispute between the customer and the utility respecting any bill, the utility shall make forthwith such investigation as shall be required by the customer. In the event that the matter in dispute cannot be compromised or settled by the parties, either party may submit the facts to the Commission for its decision, and pending such decision, service shall not be discontinued.

(e) Nonpayment.-No utility shall discontinue service to any customer for nonpayment of bill without first having diligently tried to induce the customer to pay the same and until after at least five days' written notice, excluding Sundays and holidays, to the customer.

(f) Reconnection Charge.-Whenever the sewer service is cut off for the violation of rules and regulations, or nonpayment of bill, the utility may make a reconnection charge, payable in advance, for restoring the service which shall not exceed fifteen dollars ($15.00) for restoring said service.

(g) Report of Discontinuance of Service to be filed with Health Department.-Whenever sewer service is discontinued for any reason the utility shall send a report of termination of service to the local county board of health for compliance with G.S. 130-160.

Rule R10-17. Information to customers.-(a) Information as to Service and Rates.-A utility shall, when accepting application for sewer service, give full information to the applicant concerning type of service to be rendered and rates which will be applicable.

(b) Posting of Rates, Rules and Regulations.-Every utility shall provide in its business office, near the cashier's window, where it may be available to the public the following:

(1) A copy of the rates, rules and regulations of the utility applicable to the territory served from that office.

(2) A copy of these rules and regulations.

Rule R10-18. Method of measuring service.-Sewer service provided within the State of North Carolina shall be based on the amount of water metered except where it is impractical to do so; in those cases, service on a flat rate may be permitted.

Rule R10-19. Information on bills.-All bills for sewerage service shall state whether the charge is based on a percentage of the water bill, flat rate, or other charge.

(a) Those bills based upon a water meter billing shall show the readings of the water meter at the beginning and end of the time for which bill is rendered, the dates on which the readings were taken, the amount supplied and the price per unit.

(b) Utilities desiring to adopt mechanical billing of such nature as to render compliance with all the terms of paragraph (a) impractical may make application to this Commission for relief therefrom. After considering such application, the Commission may, in its discretion, allow a departure from paragraph (a).

(c) Billing.-Meters will be read or flat rate billings rendered as nearly as possible at regular intervals. This interval may be monthly, or quarterly, however no change shall be made in the billing interval except on approval of the Commission.

Rule R10-20. Sale of sewer service.-No utility shall charge or demand or collect or receive any greater or less or different compensation for sale of sewer service, or for any service connected therewith, than those rates and charges approved by the Commission and in effect at that time.

Rule R10-21. (a) Uniform System of Accounts.-All sewerage utilities are required to keep their accounts and records in conformity with the Uniform System of Accounts for Sewer Utilities as adopted by the Commission.

(b) Multicompany Filings.-Each sewer utility operating in more than one subdivision shall maintain its accounts in such a manner that the operating revenue, the investment, the related depreciation reserve and contributions for each subdivision can be obtained from its records.

Rule R10-22. Safety program.-Each utility shall adopt and execute a safety program, fitted to the size and type of its operations. As a minimum, the safety program should:

(1) Require employees to use suitable tools and equipment in order that they may perform their work in a safe manner.

(2) Instruct employees in safe methods of performing their work.

(3) Instruct employees who, in the course of their work, are subject to the hazard of electrical shock, asphyxiation or drowning, in accepted methods of artificial respiration.

DOCKET NO. E-2, SUB 134

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Power & Light Company for Certificate of Public Convenience and Necessity, Pursuant to G.S. 62-110.1, Authorizing Construction of Additional Generating Facility at its 110 KV Substation, near Morehead City, Carteret County, North Carolina	) ORDER GRANTING) CERTIFICATE) OF PUBLIC) CONVENIENCE) AND NECESSITY

BY THE COMMISSION: This proceeding was instituted on November 15, 1966, by the filing of an application by Carolina Power & Light Company for a Certificate of Public Convenience and Necessity under G.S. 62-82 to construct additional generating facilities as set forth in the application. By order of the Commission issued January 10, 1967, a Notice to Public was issued herein, which notice has been duly published once a week for four successive weeks in The News & Observer, a daily newspaper of general circulation in Carteret County, North Carolina, as required by G.S. 62-82, as appears from the Affidavit of Publication now filed in this cause. No complaint or written protest to the granting of the Application of Carolina Power & Light Company ("Company") for a Certificate of Public Convenience and Necessity to construct an additional electric generating facility at its 110 KV Substation, near Morehead City in Carteret County, North Carolina, having been filed within the time specified in such notice, the Application has been considered and determined, without formal hearing, on the basis of the verified representations in the Application and the public records on file with the Commission.

From the verified Application and the records of the Commission, the Commission makes the following

FINDINGS OF FACT

1. The Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 336 Fayetteville Street, Raleigh, North Carolina, and is a public utility operating in North Carolina and South Carolina, where it is engaged in generating, transmitting, delivering and furnishing electricity to the public for compensation.

2. As of October 31, 1966, the Company owned and operated seven steam electric generating plants with a net capability of 2,038,000 KW and four hydroelectric generating

plants with a net capability of 211,500 KW; and it has under construction as its Roxboro Steam Electric Generating Plant, near Roxboro, North Carolina, an additional 650,000 KW generating unit, which is scheduled for completion in May 1968.

3. Including power available on a firm commitment basis, the Company's total system capability as of October 31, 1966, was 2,492,300 KW, while its firm load peak demand had reached 2,184,000 KW prior to that date.

4. Among its interconnections, the Company's facilities are interconnected with those of Duke Power Company, South Carolina Electric & Gas Company, and Virginia Electric and Power Company, neighboring public utilities, with whom it has entered into an agreement for the pooling of bulk power generating and transmission facilities and their coordinated operation over wide geographic areas, the same being designated as Carolinas-Virginias Power Pool Agreement (CARVA Pool).

5. The Company needs and proposes to install promptly at its 110 KV Substation, near Morehead City, in Carteret County, North Carolina, an additional generating facility of the internal combustion turbine generator type for its own use and as additional generating capacity of the CARVA Pool, which is the most economical type of generating equipment which it can provide for these purposes.

6. The Company has financial ability to pay for the construction and installation of the additional generating unit, which is estimated to cost $1,395,000.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction and installation by the Company of the additional generating facility hereinafter described, in that (a) such facility will provide standby generating capacity for service in the Morehead City-Beaufort area, in the event of outage on transmission lines supplying electricity to the 110 KV Substation, near Morehead City, Carteret County, North Carolina; (b) it will be available to supply peaking power requirements on the Company's system; (c) it will serve as a part of the Company's reserve generating capacity; (d) it is the most economical and dependable type of generating capacity which the Company can provide immediately for those purposes; and (e) this facility is required to maintain dependable electric service for Company's customers, and to provide its proportionate share of increased reserve generating capacity required in the operation of the CARVA Pool.

IT IS, THEREFORE, ORDERED that Carolina Power & Light Company be, and it hereby is, authorized to install and operate at its 110 KV Substation, near Morehead City,

Carteret County, North Carolina, the following described additional electric generating facility:

One internal combustion turbine generator unit of 16,000 KW net capacity to be located at the existing 110 KV Substation, near Morehead City, Carteret County, North Carolina. The unit and its auxiliary equipment will be installed on a concrete foundation at ground elevation and will be enclosed in a sheet metal house 116 feet 6 inches long by 17 feet 8 inches wide. An oil to air lubricating oil cooler and a turbine air intake silencer will be appropriately located beside the house and connected to the unit. The generator will be connected to the existing 12 KV bus at the substation. The controls for operating the unit will be in its enclosure; however, facilities will be installed at the Company's Method Dispatching Center, in Raleigh, N.C., to permit the unit to be remotely controlled. Fuel for the unit will be No. 2 fuel oil, for which two storage tanks will be provided near the unit.

IT IS FURTHER ORDERED that this order constitute a Certificate of Public Convenience and Necessity for the installation and operation of this facility.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. E-2, SUB 135

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Power & Light Company for Certificate of Public Convenience and Necessity, Pursuant to G.S. 62-110.1, Authorizing Construction of Additional Generating Facility at its L.V. Sutton Steam Electric Generating Plant, near Wilmington, New Hanover County, North Carolina	ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

BY THE COMMISSION: This proceeding was instituted on November 15, 1966, by the filing of an application by Carolina Power & Light Company for a Certificate of Public Convenience and Necessity under G.S. 62-82 to construct additional generating capacity as set forth in the application. By Order of the Commission issued November 23, 1966, a Notice to Public was issued herein, which notice has been duly published once a week for four successive weeks in the Wilmington Star News, a daily newspaper of general

circulation in New Hanover County, North Carolina, as required by G.S. 62-82, as appears from the Affidavit of Publication now filed in this cause. No complaint or written protest to the granting of the Application of Carolina Power & Light Company ("Company") for a Certificate of Public Convenience and Necessity to construct an additional electric generating facility at its L.V. Sutton Steam Electric Generating Plant, near Wilmington, in New Hanover County, North Carolina, having been filed within the time specified in such notice, the Application has been considered and determined on the basis of the verified representations in the Application and the public records on file with the Commission.

From the verified Application and the records of the Commission, the Commission makes the following

FINDINGS OF FACT

1. The Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 336 Fayetteville Street, Raleigh, North Carolina, and is a public utility operating in North Carolina and South Carolina, where it is engaged in generating, transmitting, delivering and furnishing electricity to the public for compensation.

2. As of October 31, 1966, the Company owned and operated seven steam electric generating plants with a net capability of 2,038,000 KW and four hydroelectric generating plants with a net capability of 211,500 KW; and it has under construction at its Roxboro Steam Electric Generating Plant, near Roxboro, North Carolina, an additional 650,000 KW generating unit, which is scheduled for completion in May, 1968.

3. Including power available on a firm commitment basis, the Company's total system capability as of October 31, 1966, was 2,492,300 KW, while its firm load peak demand had reached 2,184,000 KW prior to that date.

4. Among its interconnections, the Company's facilities are interconnected with those of Duke Power Company, South Carolina Electric & Gas Company, and Virginia Electric and Power Company, neighboring public utilities, with whom it has entered into an agreement for the pooling of bulk power generating and transmission facilities and their coordinated operation over wide geographic areas, the same being designated as Carolinas-Virginias Power Pool Agreement (CARVA Pool).

5. The Company needs and proposes to install promptly at its L.V. Sutton Steam Electric Generating Plant, near Wilmington, in New Hanover County, North Carolina, an additional generating facility of the internal combustion turbine generator type for its own use and as additional generating capacity of the CARVA Pool, which is the most

economical type of generating equipment which it can provide for these purposes.

6. The Company has financial ability to pay for the construction and installation of the additional generating unit, which is estimated to cost $1,425,000.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction and installation by the Company of the additional generating facility hereinafter described, in that (a) such facility will provide standby generating capacity for the start up of the steam electric generating units at the L.V. Sutton Steam Electric Generating Plant in the event of system outage; (b) it will be available to supply peaking power requirements on the Company's system; (c) it will serve as a part of the Company's reserve generating capacity; (d) it is the most economical and dependable type of generating capacity which the Company can provide immediately for those purposes; and (e) this facility is required to maintain dependable electric service for Company's customers, and to provide its proportionate share of increased reserve generating capacity required in the operation of the CARVA Pool.

IT IS, THEREFORE, ORDERED that Carolina Power & Light Company be, and it hereby is authorized to install and operate at its L.V. Sutton Steam Electric Generating Plant, near Wilmington, New Hanover County, North Carolina, the following described additional electric generating facility:

One internal combustion turbine generator unit of 16,000 KW net capacity to be located at the existing L.V. Sutton Steam Electric Generating Plant, near Wilmington, New Hanover County, N.C. The unit and its auxiliary equipment will be installed on a concrete foundation at ground elevation and will be enclosed in a sheet metal house 116 feet 6 inches long by 17 feet 8 inches wide. An oil to air lubricating oil cooler and a turbine air intake silencer will be appropriately located beside the house and connected to the unit. The generator will operate at 13.8 KV and will be connected to the existing plant 4 KV auxiliary bus through a 13.8 KV/4 KV step-down transformer rated 20,000 KVA. The controls for operating the unit will be in its own enclosure; however, facilities for remote control of the unit from the steam plant control room will be installed in that control room. Initial fuel for the unit will be No. 2 fuel oil, for which two storage tanks will be provided near the existing steam plant fuel oil facilities.

IT IS FURTHER ORDERED that this order constitute a Certificate of Public Convenience and Necessity for the installation and operation of this facility.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 136

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Carolina Power & Light Company	)	ORDER
for Certificate of Public Convenience and	)	GRANTING
Necessity, Pursuant to G.S. 62-110.1,	)	CERTIFICATE
Authorizing Construction of Additional	)	OF PUBLIC
Generating Facility at its Roxboro Steam	)	CONVENIENCE
Electric Generating Plant, in Person County,	)	AND
North Carolina	)	NECESSITY

BY THE COMMISSION: This proceeding was instituted on November 15, 1966, by the filing of an application by Carolina Power & Light Company for a Certificate of Public Convenience and Necessity under G.S. 62-82 to construct additional generating facilities as set forth in the application. By order of the Commission issued January 10, 1967, a Notice to Public was issued herein, which notice has been duly published once a week for four successive weeks in The Durham Morning Herald, a daily newspaper of general circulation in Person County, North Carolina, as required by G.S. 62-82, as appears from the Affidavit of Publication now filed in this cause. No complaint or written protest to the granting of the Application of Carolina Power & Light Company ("Company") for a Certificate of Public Convenience and Necessity to construct an additional electric generating facility at its Roxboro Steam Electric Generating Plant, in Person County, North Carolina, having been filed within the time specified in such notice, the Application has been considered and determined, without formal hearing, on the basis of the verified representations in the Application and the public records on file with the Commission.

From the verified Application and the records of the Commission, the Commission makes the following

FINDINGS OF FACT

1. The Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 336 Fayetteville Street, Raleigh, North Carolina, and is a public utility operating in North Carolina and South Carolina, where it is engaged in generating, transmitting, delivering and furnishing electricity to the public for compensation.

2. As of October 31, 1966, the Company owned and operated seven steam electric generating plants with a net capability of 2,038,000 KW and four hydroelectric generating plants with a net capability of 211,500 KW; and it has under construction at its Roxboro Steam Electric Generating Plant, near Roxboro, North Carolina, an additional 650,000 KW generating unit, which is scheduled for completion in May 1968.

3. Including power available on a firm commitment basis, the Company's total system capability as of October 31, 1966, was 2,492,300 KW, while its firm load peak demand had reached 2,184,000 KW prior to that date.

4. Among its interconnections, the Company's facilities are interconnected with those of Duke Power Company, South Carolina Electric & Gas Company, and Virginia Electric and Power Company, neighboring public utilities, with whom it has entered into an agreement for the pooling of bulk power generating and transmission facilities and their coordinated operation over wide geographic areas, the same being designated as Carolinas-Virginias Power Pool Agreement (CARVA Pool).

5. The Company needs and proposes to install promptly at its Roxboro Steam Electric Generating Plant, in Person County, North Carolina, an additional generating facility of the internal combustion turbine generator type for its own use and as additional generating capacity of the CARVA Pool, which is the most economical type of generating equipment which it can provide for these purposes.

6. The Company has financial ability to pay for the construction and installation of the additional generating unit, which is estimated to cost $1,455,000.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction and installation by the Company of the additional generating facility hereinafter described, in that (a) such facility will provide standby generating capacity for the start up of the steam electric generating units at the Roxboro Steam Electric Generating Plant, in the event of system outage; (b) it will be available to supply peaking power requirements on the Company's system; (c) it will serve as a part of the Company's reserve generating capacity; (d) it is the most economical and dependable type of generating capacity which the Company can provide immediately for those purposes; and (e) this facility is required to maintain dependable electric service for Company's customers, and to provide its proportionate share of increased reserve generating capacity required in the operation of the CARVA Pool.

IT IS, THEREFORE, ORDERED that Carolina Power & Light Company be, and it hereby is, authorized to install and

operate at its Roxboro Steam Electric Generating Plant, in Person County, North Carolina, the following described additional electric generating facility:

One internal combustion turbine generator unit of 16,000 KW net capacity to be located at the existing Roxboro Steam Electric Generating Plant, near Roxboro, N.C. The unit and its auxiliary equipment will be installed on a concrete foundation at ground elevation and will be enclosed in a sheet metal house 116 feet 6 inches long by 17 feet 8 inches wide. An oil to air lubricating oil cooler and a turbine air intake silencer will be appropriately located beside the house and connected to the unit. The generator will operate at 13.8 KV and will be connected to the existing plant 4 KV auxiliary bus through a 13.8 KV/4 KV step-down transformer rated 20,000 KVA. The controls for operating the unit will be in its own enclosure; however, facilities for remote control of the unit from the steam plant control room will be installed in that control room. Initial fuel for the unit will be No. 2 fuel oil, for which two storage tanks will be provided near the existing steam plant fuel oil facilities.

IT IS FURTHER ORDERED that this order constitute a Certificate of Public Convenience and Necessity for the installation and operation of this facility.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 137

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Carolina Power & Light Company	)	ORDER
for Certificate of Public Convenience and	)	GRANTING
Necessity, Pursuant to G.S. 62-110.1,	)	CERTIFICATE
Authorizing Construction of Additional	)	OF PUBLIC
Generating Facility at its H.F. Lee Steam	)	CONVENIENCE
Electric Generating Plant, near Goldsboro,	)	AND
Wayne County, North Carolina	)	NECESSITY

BY THE COMMISSION: This proceeding was instituted on November 15, 1966, by the filing of an application by Carolina Power & Light Company for a Certificate of Public Convenience and Necessity under G.S. 62-82 to construct additional generating capacity as set forth in the application. By Order of the Commission issued November 23, 1966, a Notice to Public was issued herein, which notice has

been duly published once a week for four successive weeks in the Goldsboro News-Argus, a daily newspaper of general circulation in Wayne County, North Carolina, as required by G.S. 62-82, as appears from the Affidavit of Publication now filed in this cause. No complaint or written protest to the granting of the Application of Carolina Power & Light Company ("Company") for a Certificate of Public Convenience and Necessity to construct an additional electric generating facility at its H.F. Lee Steam Electric Generating Plant, near Goldsboro, in Wayne County, North Carolina, having been filed within the time specified in such notice, the Application has been considered and determined on the basis of the verified representations in the Application and the public records on file with the Commission.

From the verified Application and the records of the Commission, the Commission makes the following

FINDINGS OF FACT

1. The Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 336 Fayetteville Street, Raleigh, North Carolina, and is a public utility operating in North Carolina and South Carolina, where it is engaged in generating, transmitting, delivering and furnishing electricity to the public for compensation.

2. As of October 31, 1966, the Company owned and operated seven steam electric generating plants with a net capability of 2,038,000 KW and four hydroelectric generating plants with a net capability of 211,500 KW; and it has under construction at its Roxboro Steam Electric Generating Plant, near Roxboro, North Carolina, an additional 650,000 KW generating unit, which is scheduled for completion in May, 1968.

3. Including power available on a firm commitment basis, the Company's total system capability as of October 31, 1966, was 2,492,300 KW, while its firm load peak demand had reached 2,184,000 KW prior to that date.

4. Among its interconnections, the Company's facilities are interconnected with those of Duke Power Company, South Carolina Electric & Gas Company, and Virginia Electric and Power Company, neighboring public utilities, with whom it has entered into an agreement for the pooling of bulk power generating and transmission facilities and their coordinated operation over wide geographic areas, the same being designated as Carolinas-Virginias Power Pool Agreement (CARVA Pool).

5. The Company needs and proposes to install promptly at its H.F. Lee Steam Electric Generating Plant, near Goldsboro, in Wayne County, North Carolina, an additional generating facility of the internal combustion turbine generator type for its own use and as additional generating

capacity of the CARVA Pool, which is the most economical type of generating equipment which it can provide for these purposes.

6. The Company has financial ability to pay for the construction and installation of the additional generating unit, which is estimated to cost $1,425,000.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction and installation by the Company of the additional generating facility hereinafter described, in that (a) such facility will provide standby generating capacity for the start up of the steam electric generating units at the H.F. Lee Steam Electric Generating Plant in the event of system outage; (b) it will be available to supply peaking power requirements on the Company's system; (c) it will serve as a part of the Company's reserve generating capacity; (d) it is the most economical and dependable type of generating capacity which the Company can provide immediately for those purposes; and (e) this facility is required to maintain dependable electric service for Company's customers, and to provide its proportionate share of increased reserve generating capacity required in the operation of the CARVA Pool.

IT IS, THEREFORE, ORDERED that Carolina Power & Light Company be, and it hereby is authorized to install and operate at its H.F. Lee Steam Electric Generating Plant, near Goldsboro, Wayne County, North Carolina, the following described additional electric generating facility:

One internal combustion turbine generator unit of 16,000 KW net capacity to be located at the existing H.F. Lee Steam Electric Generating Plant, near Goldsboro, Wayne County, N.C. The unit and its auxiliary equipment will be installed on a concrete foundation at ground elevation and will be enclosed in a sheet metal house 116 feet 6 inches long by 17 feet 8 inches wide. An oil to air lubricating oil cooler and a turbine air intake silencer will be appropriately located beside the house and connected to the unit. The generator will operate at 13.8KV and will be connected to the existing plant 4KV auxiliary bus through a 13.8 KV/4 KV step-down transformer rated 20,000 KVA. The controls for operating the unit will be in its own enclosure; however, facilities for remote control of the unit from the steam plant control room will be installed in that control room. Initial fuel for the unit will be No. 2 fuel oil, for which two storage tanks will be provided near the existing steam plant fuel oil facilities.

IT IS FURTHER ORDERED that this order constitute a Certificate of Public Convenience and Necessity for the installation and operation of this facility.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 94

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Duke Power Company for	)	ORDER
Certificate of Public Convenience and	)	GRANTING
Necessity Under Chapter 287, 1965 Session	)	CERTIFICATE
Laws of North Carolina (G.S. 62-110.1)	)	OF PUBLIC
Authorizing Construction of Additional	)	CONVENIENCE
Generating Capacity at the Existing Dan	)	AND NECESSITY
River Steam-Electric Generating Station,	)	
Draper, North Carolina	)	

BY THE COMMISSION: This proceeding was instituted on October 18, 1966, by the filing of an application by Duke Power Company for a Certificate of Public Convenience and Necessity under G.S. 62-82 to construct additional generating capacity as set forth in the application. By Order of the Commission issued October 28, 1966, public notice was issued herein, which notice has been duly published once a week for four successive weeks in the Reidsville Review, a daily newspaper of general circulation in Rockingham County, North Carolina, as required by G.S. 62-82, as appears from the Affidavit of Publication now filed in this cause. No complaint or written protest to the granting of the Application of Duke Power Company ("Company") for a Certificate of Public Convenience and Necessity to construct an additional electric generating facility at its Dan River Steam-Electric Generating Plant, in Rockingham County, Draper, North Carolina, having been filed within the time specified in such notice, the Application has been considered and determined on the basis of the verified representations in the Application and the public records on file with the Commission.

From the verified Application and the records of the Commission, the Commission makes the following

FINDINGS OF FACT

1. The Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 422 S. Church Street, Charlotte, North

Carolina, and is a public utility operating in North Carolina and South Carolina, where it is engaged in generating, transmitting, distributing, and selling electric power and energy to the general public.

2. As of October 31, 1966, the Company owned and operated eight (8) steam-electric generating plants with a net capability of 4,041,010 KW and owned or leased 34 hydroelectric generating plants with a net capability of 793,400 KW; and it has under various stages of design and construction two steam-electric units, two nuclear electric units, four hydroelectric units and three pumped-storage units totaling 3,955,000 KW capability for service in the 1967 - 1974 period.

3. Including power available on a firm commitment basis, the Company's total system capability as of October 31, 1966, was 4,855,410 KW, while its firm load peak demand had reached 4,345,000 KW prior to that date.

4. Among its interconnections, the Company's facilities are directly interconnected with those of Carolina Power & Light Company, South Carolina Electric & Gas Company, Georgia Power Company, and Appalachian Power Company, neighboring public utilities. Applicant is a member of the CARVA Pool, the other members being Carolina Power & Light Company, South Carolina Electric & Gas Company, and Virginia Electric and Power Company. They have entered into an agreement for the pooling of bulk power generating and transmission facilities and their coordinated operation over wide geographic areas, the same being designated as the Carolinas - Virginia Power Pool Agreement (CARVA Pool).

5. The Company needs and proposes to construct two (2) combustion turbine-generator units at its existing Dan River Steam Station, Draper, North Carolina, for its own use and as additional generating capacity for its allocated portion of CARVA Pool requirements.

6. Recent upward revision of load forecasts makes it necessary that the Company install the additional generating capacity described in paragraph 5 of the application no later than August 1968, in order to meet this anticipated load and maintain an adequate reserve margin of generating capacity. These combustion turbine-generator units represent the most reliable and economical type of peaking capacity that can be brought into service in time to meet the projected load.

7. The Company has financial ability to pay for the construction and installation of the additional generating units which are presently estimated to cost $6 million.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction and installation by the

Company of the additional generating capacity hereinafter described, in that (a) such facility will provide standby generating capacity for start up of the steam-electric generating units at the Dan River Steam-Electric Generating Plant in the event of system outage; (b) it will be available to supply peaking power requirements on the Company's system; (c) it will serve as a part of the Company's reserve generating capacity; (d) it is the most economical and dependable type of generating capacity which the Company can provide in time to meet its projected load; and (e) this facility is required to maintain adequate and dependable electric service for the Company's customers and to provide its proportionate share of increased reserve generating capacity required in the operation of the CARVA Pool.

IT IS, THEREFORE, ORDERED:

1. That Duke Power Company be, and it hereby is, authorized to install and operate at its Dan River Steam-Electric Generating Plant, Draper, Rockingham County, North Carolina, the following described additional electric generating facility:

Two combustion turbine-generator units, each with a nominal capacity of 32,600 KW net, to be located at the existing Dan River Steam Station, Draper, North Carolina. Each unit and its auxiliary equipment will be installed on a concrete slab at ground level and housed in an insulated sheet metal building 102 feet long by 38 feet wide. The supercharger for each of the combustion turbines, which consists of an evaporative cooler, a fan, silencer and connecting ductwork, will be outside of and parallel to each building. A transformer for operating the auxiliaries and the main step-up transformers (rated 45 MVA), stepping the generated voltage of 13.8 KV up to the transmission voltage of 100 KV will be located outside the building. Each unit will have all the controls for operation within its own building; however, the units can be operated remotely from the steam plant control room. These units will utilize as fuel either natural gas, #2 fuel oil, or the most economical combination of these fuels.

2. That this order constitutes a Certificate of Public Convenience and Necessity for the installation and operation of the above-described facility.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 150

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Power & Light Company for Authority to Issue and Sell Additional First Mort- gage Bonds Under the Company's Mortgage and Deed of Trust Dated as of May 1, 1940	))) ORDER))

On the 20th day of September, 1967, Carolina Power & Light Company (hereinafter sometimes referred to as the "Company"), presented its application: (a) for authority to issue and sell $40,000,000 aggregate principal amount of its First Mortgage Bonds, ____% Series due 1997 (hereinafter sometimes referred to as the "Bonds"), for the purpose of providing the Company with additional funds for the repayment of outstanding short-term loans incurred by the Company in financing the cost of construction of additional electric plant facilities; and (b) for permission to pledge the faith, credit, and property of the Company by the issuance and sale of said Bonds and by the execution and delivery of a Tenth Supplemental Indenture to the Company's Mortgage and Deed of Trust dated as of May 1, 1940, as supplemented.

A draft of the proposed Purchase Agreement for the sale by the Company and the purchase by the prospective Purchasers of said Bonds was presented with said application as Exhibit C.

As stated in the application, the Company intends publicly to invite sealed written proposals for the purchase of the Bonds on terms and conditions set forth and referred to in Exhibit B of its application. Bids to be submitted in response to such invitation are to specify the interest rate and the price to be paid to the Company for the Bonds. The Company's application states that the Company intends to accept that bid which will provide it with the lowest annual cost of money for said Bonds, and to enter into a Purchase Agreement for the sale of the Bonds on terms stated or referred to in Exhibits B and C to the application, subject to further action by this Commission when the interest rate and the price to be paid to the Company are determined and made a matter of record in this proceeding.

From a review of the application, together with Exhibits attached thereto, and upon financial statements and other records and information on file with the Commission with respect to the Company's financial condition and operations, the Commission finds as follows: that the Company is a North Carolina corporation owning and operating in this State facilities for producing, generating, transmitting, delivering and furnishing electricity to the public for compensation; that as a public service corporation the Company is subject to regulation by this Commission as to rates, service and security issues; and that the proposed

issuance and sale of $40,000,000, aggregate principal amount of First Mortgage Bonds, ____% Series due 1997, are for a lawful object within the corporate purposes of the Company; are compatible with the public interest; are necessary and appropriate for and consistent with the proper furnishing by said Company of its service to the public as a public utility; will not impair the Company's ability to perform that service; and are reasonably necessary and appropriate for such purposes; and that the Tenth Supplemental Indenture to be executed to Irving Trust Company and E.J. McCabe (successor to Frederick G. Herbst, Richard H. West and J.A. Austin) as Trustees, for the purpose, among other things, of further securing said issue of Bonds, is an appropriate instrument for pledging the faith, credit and properties of the Company.

The Commission being of the opinion that said application should be granted, subject to further order of this Commission with respect to the interest rate and the price to be paid to the Company for the Bonds, and that the proposed transaction should be approved and authorized:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

That Carolina Power & Light Company be and it is hereby permitted, authorized and empowered to:

1. Issue $40,000,000 aggregate principal amount of its First Mortgage Bonds, ____% Series 1997, under its Mortgage and Deed of Trust dated as of May 1, 1940, as supplemented, and as it will be further supplemented by the Tenth Supplemental Indenture thereto to be dated as of October 1, 1967, between the Company and Irving Trust Company and E.J. McCabe (successor to Fredrick G. Herbst, Richard H. West, and J.A. Austin), as Trustees, the Bonds to contain such provisions as prescribed in said Mortgage and Deed of Trust, as supplemented, and as it will be further supplemented by the Tenth Supplemental Indenture;

2. Invite bids for the purchase of the Bonds and enter into a Purchase Agreement for the sale of the Bonds with the bidder or group of bidders offering the lowest annual cost of money to the Company under terms and conditions substantially as set forth and referred to in Exhibit B to the Company's application, such Purchase Agreement to be in the form or substantially in the form filed as Exhibit C to the Company's application;

3. Sell the Bonds to the bidder or group of bidders submitting the proposal which will provide the Company with the lowest cost of money for the Bonds under terms and conditions substantially as set forth and referred to in Exhibit B to the Company's application.

4. Create, execute and deliver a Tenth Supplemental Indenture to be dated as of October 1, 1967, to the Company's Mortgage and Deed of Trust, as supplemented, to Irving Trust Company and E.J. McCabe (successor to Frederick G. Herbst, Richard H. West, and J.A. Austin), as Trustees, conveying all or substantially all of the Company's mortgageable properties and franchises acquired since the execution and delivery of the Ninth Supplemental Indenture to said Mortgage and Deed of Trust (except as therein to be expressly excepted) and pledging the faith, credit and property of the Company to secure the payment of the Bonds, such Tenth Supplemental Indenture to be in the form or substantially in the form of the draft thereof attached to the Company's application as Exhibit A; and

5. Use and apply the net proceeds from the sale of the Bonds (after deduction of expenses) for the repayment of outstanding short-term loans incurred by the Company in financing the cost of construction of additional electric plant facilities.

All upon the condition, however, that the sale of the Bonds shall not be consummated until the results of competitive bidding shall have been made a matter of record in this proceeding and a Supplemental Order shall have been entered by this Commission approving the interest rate to be borne by, and the price to be paid to the Company for, the Bonds.

IT IS FURTHER ORDERED, That promptly after the execution of the said Tenth Supplemental Indenture to be dated as of October 1, 1967, and the Purchase Agreement with the purchasers of the Bonds, the Company shall file a conformed copy of each of these documents as a supplemental exhibit in this proceeding.

IT IS FURTHER ORDERED, That this proceeding be, and the same is, continued on the docket of the Commission without day for the purpose of this Commission taking such further action as it may deem appropriate when the Company shall have made a record in this proceeding the results of the Company's invitation for bids for the Bonds and the action taken by the Company with respect thereto, and for the further purpose of receiving the supplemental exhibits to be filed herein, provided that nothing in this order shall be construed to deprive this Commission of any of its regulatory authority under the law, notwithstanding any provision of said Mortgage and Deed of Trust, as supplemented, or in said Tenth Supplemental Indenture.

ISSUED BY ORDER OF THE COMMISSION.
This the 29th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. E-2, SUB 150

BIGGS, COMMISSIONER, DISSENTING: As set forth in G.S. 62-161, in order for this Commission to authorize the applicant to issue the securities mentioned in its application herein, the Commission must find from the showing made by the applicant that such issue of securities is "(i) for some lawful object within the corporate purposes of the public utility, (ii) is compatible with the public interest, (iii) is necessary or appropriate for or consistent with the proper performance by such utility of its service to the public and will not impair its ability to perform that service, and (iv) is reasonably necessary and appropriate for such purpose." It may be that the applicant can make a sufficient showing to enable the Commission to make such findings, but I believe that it has not done so in the application now on file in this matter, and there has not been otherwise presented to the Commission any other evidence or showing by the applicant in this respect.

The purposes for which this issue is sought is tersely stated in paragraph 6 of the application, which recites that the funds will be used for repayment of short-term loans incurred in financing the cost of construction of additional electric plant facilities. I feel that the applicant should make a more detailed showing of what these short-term liabilities are and of the expenditures represented by such borrowings.

In short, I am unable to find from the showing made by the applicant in this case those things specified in the statute, and I therefore feel compelled to dissent from the order authorizing the issue of these securities.

M. Alexander Biggs, Jr., Commissioner

DOCKET NO. ES-1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Duke Power Company, Washington Mills Company, and Davidson Electric Membership Corporation under Chapter 287, Public Laws 1965 [G.S.62-110.2(c)] for assignment of areas in Rockingham County	ORDER

BY THE COMMISSION: This matter comes before the Commission upon joint application filed on November 21, 1966, by Duke Power Company (Duke), Washington Mills Company (Washington), and Davidson Electric Membership Corporation (Davidson), in accordance with the provisions of Section 62-110.2(c) of the General Statutes of North Carolina for the assignment of electric service areas in Rockingham County, North Carolina.

Under date of January 25, 1967, the Commission issued in this docket a form of notice to be published once a week for four successive weeks in a daily paper having general circulation in Rockingham County, as required by Rule R8-29 of the Commission. Such notice was duly published on January 30, February 6, February 13, and February 20, 1967, as appears from affidavit of publication of notice now on file in this docket, in the Reidsville Review which has general circulation in Rockingham County. By the terms of the notice it was directed that anyone being aggrieved by the proposed assignments and desiring to intervene in the matter or desiring to protest the proposed assignment of territory was required to file such intervention or protest with the Commission by April 17, 1967. The notice provided that if no one intervened or filed any protest to the application by April 17, 1967, that the Commission would determine the application on the facts set forth therein and the public records available to it in the Commission files without holding public hearing. No protest or intervention having been filed, the Commission has proceeded to determine the application in such manner as provided in the notice.

From the verified application and the records of the Commission, the Commission makes the following

FINDINGS OF FACT

1. Duke is a corporation duly organized and existing under the laws of the State of North Carolina as a public utility, with its principal office and place of business at 422 South Church Street, Charlotte, North Carolina; Washington is a corporation duly organized and existing under the laws of the State of North Carolina, with its principal office and place of business at Mayodan, North Carolina, and Davidson is an electric membership corporation duly organized and existing under the laws of the State of North Carolina, with its principal office and place of business at Lexington, North Carolina.

2. All three of the above-named applicants are "electric suppliers" as defined in Section 62-110.2(a)3 of the General Statutes of North Carolina, and as such are authorized to receive from the Commission assignments of service areas in accordance with public convenience and necessity pursuant to Section 62-110.2(c) of the General Statutes of North Carolina.

3. Duke and Davidson are authorized to operate, and do operate, in Rockingham County, and are, and for many years have been, rendering electric service to numerous customers in this county. Washington, by order of this Commission dated August 18, 1955, Docket No. C-29, was issued a certificate of public convenience and necessity to furnish electric service in the vicinity of the Town of Mayodan, Rockingham County, North Carolina, and is rendering electric service to customers in the vicinity of Mayodan.

4. No other electric supplier as defined in G.S. 62-110.2(a)3 operates in Rockingham County and the other such electric suppliers in the adjacent counties assert no claim for assignment to them by the Commission of any areas in Rockingham County.

5. Duke, Washington, and Davidson conducted extended negotiations with respect to Rockingham County and the designation of assigned and unassigned areas therein as contemplated under Chapter 287, Public Laws 1965, now codified in Chapter 62 of the General Statutes of North Carolina. As a result of these negotiations, a joint agreement was reached between the applicants covering all of the area of Rockingham County, which is outside the corporate limits of municipalities and more than 300 feet from the lines of any electric supplier and which may be subject to assignment or unassignment by this Commission under Section 62-110.2(c) of the General Statutes of North Carolina.

6. A map of Rockingham County was filed as Exhibit A with the application, which map through appropriate legends designates the areas that under the joint agreement the applicants request the Commission to assign to Duke, Washington, and Davidson, respectively, and also designates certain areas requested to be unassigned as to any electric supplier. Exhibit A was signed by representatives of all three applicants and showed the lines of all suppliers in Rockingham County as set out on the official Mylar map of such county which was filed with the Commission on March 21, 1966.

CONCLUSIONS

The Commission finds and concludes that the assignment of areas as designated by appropriate legends on the map filed with this application as Exhibit A is in accordance with public convenience and necessity.

IT IS, THEREFORE, ORDERED That the application of Duke, Washington, and Davidson for area assignment be, and the same hereby is, approved; and the areas in Rockingham County situated more than 300 feet from the lines of any electric supplier and outside the corporate limits of a municipality are assigned to the respective applicants or designated as unassigned, all as shown on Exhibit A, incorporated herein by reference and made a part of this order as fully as if set out herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. ES-4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Duke Power Company and Surry-Yadkin Electric Membership Corporation under Chapter 287, Public Laws 1965 [G.S. 62-110.2(c)] for assignment of areas in Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties) ORDER

BY THE COMMISSION: This matter comes before the Commission on joint application filed on February 15, 1967, by Duke Power Company (Duke) and Surry-Yadkin Electric Membership Corporation (Surry-Yadkin), under the provisions of Section 62-110.2(c) of the General Statutes of North Carolina for the assignment of electric service areas in Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties, North Carolina.

On February 23, 1967, the Commission in this docket issued a form of notice to be published once a week for four successive weeks in a daily newspaper having general circulation in Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties, as required by Commission Rule R8-29. The notice was published on March 3, March 10, March 17, and March 24, 1967, as appears from affidavit of publication of notice now on file in this docket, in the Winston-Salem Journal, having general circulation in Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties. The notice provided that anyone aggrieved by the proposed assignments and desiring to intervene in the matter or desiring to protest the proposed assignment of territory should file such intervention or protest with the Commission by May 16, 1967. The notice further provided that, in the absence of intervention or protests, the Commission would decide the matter on the application and the public records available to it in its files and no public hearing would be held. No protest or intervention having been filed, the Commission has determined the application as provided in the notice.

Upon the verified application and the records of the Commission, the Commission makes the following

FINDINGS OF FACT

1. Duke is a corporation duly organized and existing under the laws of the State of North Carolina as a public utility, with its principal office and place of business at 422 South Church Street, Charlotte, North Carolina, and Surry-Yadkin is an electric membership corporation duly organized and existing under the laws of the State of North Carolina, with its principal office and place of business at Dobson, North Carolina.

2. Both of the above-named applicants are "electric suppliers" as defined in Section 62-110.2(a)3 of the General

Statutes of North Carolina, and as such are authorized to apply to the Commission for assignments of service areas in accordance with public convenience and necessity pursuant to Section 62-110.2(c) of the General Statutes of North Carolina.

3. Both Duke and Surry-Yadkin are authorized to operate, and do operate, in Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties, and are, and for many years have been, rendering electric service to numerous customers in these counties.

4. No other electric supplier as defined in G.S. 62-110.2(a)3 operates in the areas in Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties covered by this application and no electric suppliers serving in other areas of these and adjacent counties assert any claim for assignment to them by the Commission of any of the areas covered by this application.

5. Duke and Surry-Yadkin conducted extended negotiations with respect to Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties and the designation of assigned and unassigned areas therein as contemplated under Chapter 287, Public Laws 1965, now codified in Chapter 62 of the General Statutes of North Carolina. As a result of these negotiations, a joint agreement was reached between the applicants covering substantial areas in each of such counties, which are outside the corporate limits of municipalities and more than three hundred (300) feet from the lines of any electric supplier and which may be subject to assignment by this Commission under Section 62-110.2(c) of the General Statutes of North Carolina.

6. Maps of Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties were filed as Exhibits A, B, C, D, and E to the application, said maps through appropriate legends designating the areas which applicants request the Commission to assign to Duke and to Surry-Yadkin, respectively, and also designate certain areas requested to be unassigned as to any electric supplier, and also designate certain areas which are not covered by the application. Exhibits A, B, C, D, and E were signed by representatives of both applicants and show the lines of all suppliers in Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties as set out on the official Mylar maps of such counties filed with the Commission on August 3, 1966.

CONCLUSIONS

The Commission finds and concludes that the assignment of areas as designated by appropriate legends on the maps filed with this application as Exhibits A, B, C, D, and E is in accordance with public convenience and necessity.

IT IS, THEREFORE, ORDERED That the application of Duke and Surry-Yadkin for area assignment be, and the same hereby is,

approved; and the areas in Forsyth, Stokes, Surry, Wilkes, and Yadkin Counties situated more than three hundred (300) feet from the lines of any electric supplier and outside the corporate limits of a municipality are assigned to the respective applicants or designated as unassigned, all as shown on Exhibits A, B, C, D, and E, incorporated herein by reference and made a part of this order as fully as if set out herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of June, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. E-2, SUB 143

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Carolina Power & Light Company's Special)
Billing Arrangement Under Small General) ORDER
Service Schedule)

This matter comes before the Commission upon the application of Carolina Power & Light Company (hereinafter called Company), filed on March 3, 1967, requesting approval of an agreement between Company and its customer, Carolina Telephone & Telegraph Company, Tarboro, North Carolina, and seeking permission to use a billing procedure under its Small General Service Schedule (No. G-1G), based upon an estimated monthly kilowatt-hour consumption for each device connected to the Company's distribution system in lieu of the kilowatt-hour consumption determined by a watt-hour meter. A copy of the executed agreement between Company and Carolina Telephone & Telegraph Company is attached to Company's application.

Treating Company's verified application with agreements attached as an affidavit, the Commission finds the following facts:

1. That Company and its customer, Carolina Telephone & Telegraph Company have executed an agreement bearing date of February 7, 1967, which agreement fully sets forth the terms and conditions of the service arrangement between Company and Carolina Telephone & Telegraph Company; that this agreement provides that Company is to bill customer monthly for electricity furnished on flat rates based on a predetermined consumption for each type of amplifier in accordance with a duly filed tariff schedule.

2. That the service proposed to be supplied will be constant for 24 hours per day, every day of the month, or

730 hours per month for operational purposes; that, under such conditions, the kilowatt-hour consumption may be computed with as great accuracy as it could be recorded by a kilowatt-hour meter; that the adoption of such billing arrangement will eliminate the necessity for the installation of meters and meter loops and eliminate the necessity for the reading of meters.

3. That the elimination of the use of meters will result in a substantial economy to the Company and the elimination of the installation of meter loops will constitute a substantial economy to the customer.

4. That customer proposes to install a closed circuit television system for the purpose of supplying television service to residents in and near Whiteville and Chadbourn in Columbus County, North Carolina; that the installation of such systems requires the attachment of customer's facilities to Company's poles, which has been agreed upon, that these systems will require the use of different sizes of amplifiers, which amplifiers will require electricity 24 hours per day every day of the month or 730 hours per month for operational purposes; that the wattage of each size amplifier has been determined by tests; therefore, the Kwh use per month can be computed to give a very close approximation of the number of Kwh that a meter would register.

Based on the foregoing findings of fact, the Commission makes the following

CONCLUSIONS

Application is made for approval of this billing arrangement under the provisions of G.S. 66-9. G.S. 66-9 provides that gas and electric light bills show readings of meters; however, it contains the following proviso: "but this section shall not apply to bills and accounts rendered customers on flat rate contracts."

The Company and its customer, Carolina Telephone & Telegraph Company, have submitted a copy of a signed agreement which indicates they have agreed upon the method of billing for which approval is sought; that the use of electricity for the purposes sought will be constant and on a 24-hour basis every day in the month; that wattages of each size amplifier to be used in the sytem have been determined by tests; that under these circumstances the Kwh of electricity used per month can be computed to give a very close approximation of the number of Kwh that a meter would register; that the method of billing sought would result in substantial economies to both the Company and its customer. The agreement further contains provisions to take care of future changes in conditions, all of which seem reasonable.

From all the foregoing the Commission is of the opinion that the agreement between the Company and its customer,

Carolina Telephone & Telegraph Company, is reasonable and should be approved, and that the proposed method of billing is reasonable and that the Company should be authorized to follow this method in billing this customer.

Based on the foregoing conclusions, the Commission enters the following Order.

IT IS, THEREFORE, ORDERED that the agreement between Carolina Power & Light Company and Carolina Telephone & Telegraph Company dated February 7, 1967, be and the same is hereby approved, and that Carolina Power & Light Company be and it is hereby permitted to determine its bills for service to the amplifier installations made and to be made by or for Carolina Telephone & Telegraph Company as set forth in and in the manner described in said agreement, as follows:

"That the unmetered Kwh for each amplifying station will be billed separately under our Small General Service Schedule and the number of Kwh billed per month for each amplifying station will be the sum of the Kwh computed for each model of amplifier and power supply installed at a station. The computed usage for each model of amplifier and power supply is as follows:

Amplifier

(a)	Jerrold Model SA-1A	14 Kwh
(b)	Jerrold Model SA-2A	12 Kwh
(c)	Jerrold Model SA-3A	10 Kwh
(d)	Jerrold Model SA-4A	8 Kwh
(e)	Jerrold Model SA-5A	8 Kwh
(f)	Jerrold Model SX-1A	6 Kwh

Power Supply

(a)	Jerrold Model SPS-12	38 Kwh"

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 139

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Investigation of Carolina Power and Light Company)
service regulations relating to underground) ORDER
installation of electric distribution and service)
facilities)

HEARD IN: The Commission Hearing Room, State Library Building, Raleigh, North Carolina, May 17, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott and Commissioners Sam O. Worthington (presiding), Clarence H. Noah, John W. McDevitt, and Thomas R. Eller, Jr.

APPEARANCES:

For the Respondent:

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For the Protestant-Intervenors:

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For: North Carolina Home Builders Association

For the Using and Consuming Public:

George A. Goodwyn
Assistant Attorney General
Room 210, State Library Building
Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
General Counsel
North Carolina Utilities Commission
Raleigh, North Carolina

ELLER, COMMISSIONER: These proceedings arise from notice issued November 1, 1966, by the Commission to all electric utilities and electric membership cooperatives operating in North Carolina requesting each to file in tariff form for approval their rates, charges, rules, and regulations governing the provisions of electric services and installations underground. Pursuant to the notice and in apt time, Carolina Power & Light Company (Carolina) filed its Plan R-6, Underground Installation.

The Commission initiated a general investigation into the justness and reasonableness of the plan and the practices thereunder without suspending its effectiveness, scheduled public hearings, and directed public notice of the hearings. Hearings came on after notice and were heard with Protestants and Intervenors present and participating as captioned.

Carolina contends generally, and introduced evidence intended to show, that its plan, and its practices thereunder, are just, reasonable, and otherwise lawful and tend to prevent unjust discrimination by requiring contributions in aid of construction from parties requesting the service to the extent average costs of installing services underground exceeds overhead installation costs.

While none of the Protestants and Intervenors contend identically, all generally contend that Carolina's plan is indefinite, uncertain, and does not correctly and completely set forth Carolina's actual practices, that the revisions and practices thereunder are unlawfully promotional of exclusive use of electric energy in homes and businesses, and that the revisions and practices thereunder are unjustly discriminatory.

Having considered the testimony, exhibits, admissions, stipulations, arguments, and briefs presented on behalf of all participants in light of applicable law, the Commission now makes the following

FINDINGS OF FACT

1. Carolina Power & Light Company, the Respondent in these proceedings, is a duly created and existing corporation and a duly authorized and acting public utility engaged in the generation, transmission, distribution, and sale of electric energy in North Carolina and is properly before the Commission, which has jurisdiction over the Company and the subject matter of the proceedings.

2. The great majority of Carolina's transmission and distribution facilities are above ground and this is its systemwide standard method of installing electric service.

3. The demand for installation of utility facilities underground has been growing at an increasing rate in recent years. This is attributable in part to advantages the method is anticipated to offer in greater safety for those in the immediate areas, reduction in outages due to storms and other hazards, aesthetic benefits from preservation of the natural beauty of the areas, and substantial increases in appraised values of lots in the areas affected. The increasing demand is also due to policies of the national, state, and local governments, practically all of which encourage the installation of utility facilities belowground in new residential developments. The Federal Housing Administration and the Veterans Administration, which now finance or guarantee the financing on the majority of new residential developments, require that all utilities in the developments be installed belowground except in cases of unusual hardship. Some municipalities are considering ordinances requiring these facilities to be belowground.

4. The installation of electric distribution systems belowground in new residential subdivisions generally costs more than to install the same facilities overhead, but the margin is narrowing rapidly due to developments in manufacturing technology, economies of scale, and constantly improving installation techniques. Illustrations of these cost-reducing influences are: improved, more portable and versatile trenching machinery, sheathing of conductors for protection against water and insulation from external interferences which eliminates metal conduits, joint uses of trenches for both electric and telephone conductors laid at random (i.e., without special attention to separating the two wires) and more compact, individualized transformers tending to eliminate secondary distribution lines. In addition, the installation of electric facilites belowground offers anticipated cost savings which, although tangible, are presently immeasurable. Typical of these savings are the generally anticipated lower depreciation rates associated with buried facilities as contrasted with comparatively short-lived wood poles, elimination of extraordinary maintenance such as results from ice, snow, and windstorms and vehicular collisions with facilities, anticipated lower ordinary maintenance costs, and reduced personal injuries claims, since underground facilities

"short-out" in the ground when interfered with and do not burn or electrocute those contacting or breaking the conductors.

5. In meeting the increasing demands for burial of its facilities in new residential developments, Carolina has followed an unwritten policy. The Company's plan R-6 as filed by Carolina in this docket is for the purpose of stating the principles and practices with respect to installation of underground facilities which the company is now following and which it proposes to continue, subject to approval by the Commission. The principal features of Carolina's plan are:

(a) The installation of electric facilities underground is declared available to the company's residential, commercial, or industrial customers and to developers of new residential areas, the exceptions being that it is not available for street lighting or where the voltage supplying the requesting party's load is more than twenty-three (23) kilovolts. A "new residential area" is defined as one where the underground system will serve at least twenty (20) building lots.

(b) The general principle declared in the plan is that the company will furnish underground facilities provided the customer or developer pays a charge (called a "contribution in aid of construction") equal to the difference between the estimated installed cost of the underground facilities and the estimated installed cost of the overhead facilities that would normally be furnished for supplying the service. The plan does not declare any conditions under which Carolina will install new facilities underground or replace existing overhead facilities with underground facilities without extra charge.

(c) Basically, Carolina's Plan R-6 is divided into two portions: (1) Provisions relating to the installation of facilities underground in areas already served by overhead facilities; (2) Provisions relating to the installation of facilities underground in new residential areas as defined in the plan. There is no provision specifically applicable to the installation of underground facilities in highly congested, high density, built up areas such as the so-called "mid town" or commercial areas of cities.

(d) Under the portion of the plan relating to underground connections in overhead distribution areas, the plan provides that the party requesting a new underground installation shall contribute the difference between the estimated installed cost of the underground facilities and the overhead facilities that would normally be installed. No provisions or standards are made as to the cost components of these estimates or the procedure to be followed in making them. In addition to providing the foregoing contribution, the plan provides that the primary

customer will dig and backfill the trench, including the cutting and replacing of pavement. Industrial, governmental, or large institutional customers have the option of paying their contribution as a monthly facilities charge under written agreement having a term of not less than ten (10) years. Where it is requested that existing overhead facilities be replaced with underground facilities, the plan provides that the customer makes a contribution as aforesaid, plus estimated removal costs less estimated salvage value and credits for any reworking that would have been required in the overhead system at the same time.

(e) In new areas where the customer can be served from 120/240 single phase residential secondary distribution system, the plan states the same general principle on the contribution to be required, but contains these specific provisions: (1) In any new areas consisting of twenty (20) or more building lots, all customers, or requesting parties, shall pay eighty-five cents (85¢) per front lot foot for the lots that can be served from the system; (2) In addition, a charge of eighty dollars ($80) is provided for each "small service" connection, this being defined as a connection from which the company will receive an estimated annual revenue of $225 or less or where the service entrance capacity is less than 125 amperes as prescribed under the National Electric Code; (3) Where any service connection exceeds 150 feet, or the customer desires a point of delivery other than "normal" the plan provides for an additional charge of eighty cents (80¢) for each additional foot of service connection installed; (4) In addition to the foregoing specific charges, the plan provides for additional charges for "special" or "abnormal" conditions, these being defined as installations requiring extra or temporary facilities, cutting and replacing pavements, situations where the company's "normal standard" materials or methods cannot be used, and where the underground system will serve less than twenty (20) building lots. The plan does not specify how the estimated cost differentials or annual revenue estimates will be made and does not define the term normal other than as recited. The plan does not specifically assure availability of underground installation to new residential areas or customers having less than twenty (20) building lots to be served and provides no standards or procedures for computing the contribution when service is accorded by the company in such instances.

6. The uniform charge of eighty-five cents (85¢) per lot front foot, which is the basis of computing the contribution required of all parties requesting underground facilities in new areas having twenty (20) or more building lots, was derived by Carolina by taking its abbreviated cost estimates for seven residential lots and averaging the cost differentials between the estimated cost of underground and overhead primary and secondary systems on a per foot basis.

Of the seven (7) project designs used in deriving the above average, only one system has been installed. This system was not installed as laid out in the estimates.

7. The uniform charge of eighty dollars ($80) per connection, which is the basis of computing the additional contribution required of all parties requesting underground facilities in new areas having twenty (20) or more building lots and installing small service connections as defined in the plan, is derived by comparing the estimated costs of installing a service connection overhead and underground on the basis of high and low service entrance requirements. On the basis of Carolina's estimates and averaging procedures, the average cost difference for a low use customer (over a high use customer) was $87 for 1965 and $88 for 1966. The company rounded these figures to $80 for purposes of its plan.

8. Based on the foregoing estimates and their averages, the company's overhead high use installations cost $3.00 more per installation in 1965 than underground high use, but in 1966, underground high use installations cost $4.00 more than high use overhead.

9. In making installations of its facilities underground, Carolina has not kept its records separated in such manner as to accurately determine actual costs and their relationship to estimated costs, for either overhead or underground facilities. For engineering and practical reasons, however, the company installs only high use facilities underground.

10. In installing facilities underground in new residential areas as defined in the plan, the company enters written contracts with the requesting parties. The form of these contracts has not been submitted to the Commission for approval. Customarily, these contracts require a developer or builder to include a restrictive covenant in his deed to purchasers allowing service only of the type and voltage available for residential service from the high use distribution system. This requirement is not a provision in the plan as filed in these proceedings. These contracts further provide for refunds of $80 per house where this charge has been made of a party originally planning low use homes and later changing his plans and contracting with Carolina. Carolina's Plan R-6 makes no reference to this procedure. Where a requesting party pays only the eighty-five cents (85¢) per front foot charge, the contracts generally make him subject to a further assessment of $80 per lot for each lot not actively promoted and sold under the foregoing restrictions. Many developers install all electric homes to avoid payment of the extra $80 per lot charge or to obtain refunds.

CONCLUSIONS

We conclude and hold that Carolina's Plan R-6, and the practices thereunder, are unjust and unreasonable for the following reasons:

1. G.S. 62-138(a) requires every public utility to file with the Commission and to keep open to public inspection all schedules of rates, service regulations and forms of service contracts, used or to be used, within the jurisdiction of the Commission. G.S. 62-140(b) empowers the Commission to make reasonable and just rules and regulations to prevent discrimination in rates or services and to prevent the giving, paying, or receiving of any rebate or bonus, directly or indirectly, or misleading or deceiving the public in any manner as to rates charged for utility services. G.S. 62-140(c) requires the filing with and prior approval of the Commission of a schedule of any compensation, consideration, or equipment to be offered or furnished to secure the installation or adoption of the use of a utility service. Commission Rule R8-25(a), governing electric utilities and grounded on the statutes, provides:

> Copies of all schedules of rates for service, forms of contracts, charges for service connections and extensions of circuits, and of all rules and regulations covering the relations of consumer and utility, shall be filed by each utility in the office of the Commission. Copies of such rates, rules and regulations shall be furnished consumers or prospective consumers upon request.

Commission Rule R8-1(b) declares the intent and purpose of the statutes and the rules:

> The rules are intended to define good practice which can normally be expected. They are intended to insure adequate service and to protect the public from unfair practices and the utilities from unreasonable demands. The cooperation of the utilities with the Commission is presupposed.

We hold the plan filed in these proceedings is not in compliance with the foregoing statutes and rules in that they are indefinite, uncertain, and incomplete and do not perform their requisite function of informing the using public of their reasonable rights and obligations with respect to obtaining the installation of electric facilities belowground and do not contain sufficient standards to enable the Commission to assure compliance with provisions of law prohibiting discrimination, rebates, and bonuses.

2. G.S. 62-140(c) provides as follows:

> No public utility shall offer or pay any compensation or consideration or furnish any equipment to secure the installation or adoption of the use of such utility service except upon filing of a schedule of such

compensation or consideration or equipment to be furnished and approval thereof by the Commission, and offering such compensation, consideration or equipment to all persons within the same classification using or applying for such public utility service; provided, in considering the reasonableness of any such schedule filed by a public utility the Commission shall consider, among other things, evidence of consideration or compensation paid by any competitor, regulated or nonregulated, of the public utility to secure the installation or adoption of the use of such competitor's service.

We hold the service regulations filed in these proceedings, and the practices under them, are unlawful under, and in violation of, the foregoing statute in that said regulations and the practices thereunder result in inducing the exclusive use of electricity for all energy uses in customers' homes. That the company makes refunds of amounts already paid or installs facilities underground at much less cost to the requesting party where installs electric-using facilities and appliances producing high use of electricity and high capacity electric service entrance facilities establishes that Carolina is offering or paying compensation or consideration or furnishing equipment to secure the installation or adoption of its utility service within the purview of G.S. 62-140(c). Under the statute, we may not approve such practices unless we find: (a) such offer, payment, or furnishing is offered to persons using or applying for such service; (b) the offer is to all customers (within the class) without discrimination; and (c) is reasonable considering, inter alia, evidence of consideration or compensation paid by Carolina's regulated or unregulated competitors. While there is evidence that the services called for under Plan R-6 are to be offered to all customers, they are not confined to customers as this Commission has previously defined the term. In fact, the major application of the plan is to builders and developers, which the Commission has held are not the ultimate customers as contemplated by the statute. Carolina Power & Light Company, Docket No. E-2, Sub 100, 52 PUR 3d 469 (1964). As discussed later, we cannot find that the plan is offered to all customers without discrimination. While there is evidence in the record that Carolina's electric competitors make underground installations without requiring contributions from requesting parties and that Carolina has lost subdivisions within or adjacent to its service area because of this competition, this evidence is insufficient to justify a conclusion that Carolina's plan and practices are otherwise just and reasonable.

3. G.S. 62-140(a) and (b) are as follows:

(a) No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or

services either as between localities or as between classes of service. The Commission may determine any questions of fact arising under this section.

(b) The Commission shall make reasonable and just rules and regulations:

(1) To prevent discrimination in the rates or services of public utilities.

(2) To prevent the giving, paying or receiving of any rebate or bonus, directly or indirectly, or misleading or deceiving the public in any manner as to rates charged for the services of public utilities.

We hold the instant plan and the practices thereunder to be unlawful under the foregoing provisions in that the plan permits, and the practices thereunder confirm, that heavier users of electricity are, and would continue to be, provided underground service on more favorable terms than less heavy users. This constitutes an unreasonable preference to heavy users and an unjust discrimination against other customers in the same class and served at the same cost with substantially the same facilities. The heavier usage of electricity, and the reduced cost of service associated therewith, is already contemplated in the block rates and classifications in Carolina's tariffs. A contribution in aid of construction is not a fair, reasonable, and just device for compensating the utility for investment in facilities over and above that necessary to render service to the customer making the contribution. Plan R-6 permits, and the practices thereunder confirm, that there is no practical distinction between the term "low use" and the phraseology used in the plan and the term "non all electric." Nor is there any practical distinction between the term "high use" and the term "all electric." The charges made are not founded on actual cost differentials, but upon averages of estimates of cost, which estimates in turn are founded upon how much revenue the ultimate consumer will produce for the company and do not bear reasonable relationship to the actual installation costs.

4. We further conclude and hold:

(a) The installation of utility facilities belowground is a modern, improved service to which electric utility customers are entitled as rapidly as the service can be extended without unduly burdening the utility and its customers already served by facilities installed overhead.

(b) The difference in cost, if any, between providing electric utility services below ground and overhead should be borne by those receiving the benefits therefrom.

(c) The charges made to those receiving electric utility service underground, if any, should be an actual cost of

service basis and should be uniform as between all customers receiving the same, or substantially the same, service under similar conditions. The preferable way to recover such costs, if any, is through an approved rate, or surcharge, applicable on a fair and uniform basis as between all customers similarly situated and without distinction between high and low use customers.

(d) All utility customers, including those not building in areas having twenty (20) or more building lots, are entitled to have the availability of underground installation of electric facilities assured them and should be apprised in tariff form of all conditions and costs requisite to obtaining such service through appropriate filings with this Commission pursuant to statute.

(e) Carolina Power & Light Company should apprise the public through filings with this Commission of company policy regarding where and under what conditions it will provide underground installation of service without extra charge based on economic considerations favoring underground installation over overhead installations.

(f) Carolina is entitled to charge, as a contribution in aid of construction or otherwise, for special or unusual expenses above average expenses or expenses incurred solely to meet the personal desires or convenience of customers in providing installation of facilities underground beyond what sound engineering design would indicate. Examples are special expenses in blasting trenches in rock and stone, breaking and replacing pavement, circuitous trenching to avoid uprooting or damaging trees and shrubbery, etc. In other words, the company is entitled to receive of the customer an extra charge for special conditions comparable underground to special conditions for which charges now are made in overhead facilities. Average installation responsibilities, such as for backfilling trenches, should not be the responsibility of the customer as it is in parts of the plan before us.

IT IS, THEREFORE, ORDERED:

1. That Plan R-6, Underground Installation, filed by Respondent, Carolina Power & Light Company, and the subject of investigation in this docket, and the practices thereunto pertaining, be, and hereby are, disapproved. All said practices under and related to the plan herein disapproved shall cease and determine from and after the date this order becomes effective, subject to the completion and execution of any written contracts actually entered into prior to the date this order issues.

2. That not more than thirty (30) days from the date this order becomes effective, the Respondent, Carolina Power & Light Company, shall file with this Commission in tariff

form its written statement assuring belowground installation of electric facilities to those requesting it for residential and commercial and industrial locations, including street lighting and individual residences, and providing for the replacement of existing above ground distribution facilities with belowground facilities under such disclosed, reasonable, and nondiscriminatory conditions as the Commission may approve. Said statement shall also accurately and completely set forth Respondent's policy for the installation of electric facilities underground without charge in areas of extremely high density, structural congestion, or other physical and geographic characteristics, and conditions rendering underground installation economically or otherwise more favorable than overhead facilities.

3. That, in the event Carolina Power & Light Company proposes to attach conditions to the availability of any of the foregoing services belowground, the same shall be completely, accurately, and uniformly set out in said statement.

4. It is further provided that, in the event Respondent, Carolina Power & Light Company, proposes to collect from customers or others any amounts representing any differences in cost for the installation of electric facilities belowground, the same shall be in the form of a surcharge to become a rider to the rates paid by those receiving service through belowground facilities. Said surcharge, if sought, shall be based on actual cost differentials, shall be uniform in application within the respective residential, commercial, and industrial classifications, and distinctions in the surcharge shall not be based upon the capacity of the customer's service entrance facilities, or the revenue produced or to be produced by the customer, or the end use to be made of electricity by the customer, or the amount of use by the customer, or any basis reflected, or properly to be reflected, in the base rates applicable to such respective general customer classification.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 139

WESTCOTT, CHAIRMAN, CONCURRING IN PART AND DISSENTING IN PART: I first commend the author of the majority opinion for the competent analysis of the evidence of record in this proceeding. I concur generally in the findings of fact and conclusions of law, except the statement on page 11, "A contribution in aid of construction is not a fair, reasonable, and just device for compensating the utility for

investment in facilities over and above that necessary to render service to the customer making the contribution"; and decretal paragraph No. 4 on page 13 which suggests a surcharge on rates for the recovery of differences in cost between underground and overhead installations. The evidence of record is clear that underground installations enhance the value of property and that such is recognized by the Federal Housing Administration and the Veterans Administration who now finance or guarantee the financing of many of the new residential developments. Loans have been increased on residences served with underground installations, which in my opinion recognizes the value of property with underground installations.

The value of property in this instance should not be confused or commingled with a rate structure. Such leads only to burdensome and expensive administration and is confusing to the ratepayers assessed with a surcharge. It is my opinion that the difference in construction cost, if any, for underground installations versus overhead installations has to be determined before a reasonable surcharge can be calculated and that such determination should be considered an element of the value of property rather than the assessment of a rate differential between customers receiving the same kind of electricity for essentially the same end use.

H.T. Westcott, Chairman

DOCKET NO. E-2, SUB 139
DOCKET NO. E-7, SUB 96
DOCKET NO. E-22, SUB 86

WORTHINGTON, COMMISSIONER, DISSENTING: I have read with interest the order in this matter and note well that the result reached is entirely different and foreign to what the five Commissioners in conference formally agreed should be done. I assume, therefore, that the order represents the thinking of the author in deference to that of the five as determined in conference.

I am sure counsel for respondent will be able to diagnose and analyze the order. I desire, however, as one of my last official acts with the Commission, to here give some of the reasons why I disagree with the final results reached and why I feel that the order accomplishes nothing more than the possible postponement of the evil day of reckoning and determination of the issues involved.

I understand the order to find and declare as a fact that the installation of underground electric utility facilities for the furnishing of electric service is more costly than the establishment of overhead facilities for the rendering of the same service and that those who are going to receive the underground service should be required to pay that difference in cost. I certainly do not disagree with this finding if that is the meaning of the language in the order.

I gather from the record that the respondent company, through its filings, sought or seeks to recover the differential in cost as between underground service and overhead service and require that the developer or person responsible for the construction pay this difference or put up funds to guarantee the payment of this difference prior to the installation of the service in that it is more economical and more feasible in the installation of underground service to put the entire system in at one time rather than in sections as houses are constructed.

I understand also that filings of the respondent include certain items of cost such as maintenance and contingencies, which are not properly subject to be included in actual costs, and that the filings provide for certain refunds with respect to the use of current. I have no quarrel with the elimination of items and practices of this kind from the filings. I do not think they should have been included. The filings, therefore, stripped of cost items other than actual cost of construction and the practices concerning refunds in connection with the use of current, should have been aproved, and the Commission should have established a sound, firm policy for the recovery by the respondent company from the developers, builders or contractors of the actual cost differential between underground installation and comparable overhead installation so that the purchaser of the property who eventually becomes the user of the electric service will pay this differential at the time of acquisition of the property. This would have ended the controversy.

In justification of my position I call attention to the record evidence that F.H.A. and other sources of construction funds, which require underground service before they will participate, recognize the increase in value of the property through underground installation of utility services and through such recognition increases the amount of its loans on such properties. Thus the purchaser, developer or contractor can acquire additional funds for the payment of this additional cost at the time of financing, and the user of service will pay for such service at the same rates and on the same basis that all other users of current pay under the same schedules. In this way the beneficiary of the improved property pays the cost of the improvement without any change in utility rates and without burdening, or the chance of burdening, other users of service under the same schedule.

For all practical purposes, however, the order holds the filings of the respondent company to be unjust and unreasonable and thereby denies the use of them. It then requires the respondent company, within 30 days from the date the order becomes effective, to file in tariff form a written statement assuring belowground installation of electric facilities to those requesting it for residential and commercial and industrial locations and providing for the replacement of existing aboveground distribution

facilities with belowground facilities, subject to such reasonable and nondiscriminatory conditions as contemplated in a further statement. The further statement simply stating that if respondent power company proposes to attach conditions to the provisions of any of the foregoing services belowground, same shall be completely, accurately and uniformly set out in such statement, and if it proposes to collect from customers or others any differences in cost for the installation of electric facilities belowground, the same shall be in the form of a surcharge to become a rider to the base rates paid by those receiving service through belowground facilities, such surcharge, if used, to be based upon actual cost differential.

Thus the order asserts as a fact that underground installations are more costly than overhead facilities and requires the company file tariff assuring the installation of underground service, upon request, even to the replacement of overhead facilities with underground service and leaves it permissive with the company as to whether it will require those demanding the higher cost facilities to pay the difference or simply let the other ratepayers of the company help pay this additional cost. If the company seeks to recover any of the additional cost due to the differential between the cost of underground installation and similar overhead installation, it shall do so only through a surcharge in the way of an extra charge to users of the service.

I strongly disagree with this particular part of the order. Basically I find myself in disagreement on four points.

1. The record evidence establishes that there is an increase in value of the property through the availability of underground facilities. Certainly the developer is going to sell his lot to the purchaser at the increased value, and the purchaser, therefore, finds himself paying for this service when he buys the lot and in addition finds himself assessed with a surcharge on his current bill that may run eternally and everlastingly and will have to be paid by whoever acquires the property and uses the current. This creates a vicious situation.

2. The differential in cost between underground service and overhead service will, of course, vary from one development to another. Mind you now, the order specifies that the surcharge shall recover the actual differential in cost, thus the power company will, of necessity, find itself serving customers in many different developments on the same schedule but using a variety of different surcharges throughout its service area - a deplorable situation.

3. The record indicates the necessity to install underground service throughout a development at one time in deference to installing service as houses are constructed as may well be done in overhead service, so at such time as a

developer may request underground service for 100 lots in a development the respondent is, by the order, required to install that service without any charge regardless of how much it may cost. The developer may construct and sell 10 houses and then may well abandon the development. Are the 10 users of service in the development going to be required to pay surcharge sufficient to pay the entire cost of the construction or is this cost to become a drain and burden upon other ratepayers of the company?

4. I think possibly the saddest thing about the order is that it determines and accomplishes nothing. It simply strikes out the present filings and requires another filing. This simply means that the same parties will be back protesting the next filing and the matter will have to be heard all over again.

Better by far that this Commission determine this matter now rather than set the stage for another prolonged hearing.

For the reasons stated, I disagree with the order in this matter and respectfully lend my dissent thereto.

Sam O. Worthington, Commissioner

DOCKET NO. E-2, SUB 139

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Carolina Power & Light Company service regulations relating to underground installation of electric distribution and service facilities	) ORDER FOLLOWING) FURTHER HEARING

HEARD IN: The Commission Hearing Room, Old YMCA Building, on Tuesday, November 28, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., Clawson L. Williams, Jr., and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

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For the Commission Staff:

Edward B. Hipp
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ELLER, COMMISSIONER: On 31 August 1967 the Commission entered its order disapproving Plan R-6 (Underground Installation) as filed on 2 December 1966 by Carolina Power & Light Company (Carolina). Among others, the order contained this proviso:

". . . in the event Respondent, Carolina Power & Light Company, proposes to collect from customers or others any amounts representing any differences in cost for the installation of electric facilities belowground, the same shall be in the form of a surcharge to become a rider to the rates paid by those receiving service through below ground facilities . . ."

Carolina in apt time duly filed Notice of Appeal and Exceptions and moved to postpone the effective date of the Commission's order. Simultaneously, the Company filed its Plan R-7, R-8, and Rider 19 pursuant to the above quoted directive in the order. Counsel's transmittal of subject plans recited: "These filings are made for the purpose of complying with said order and are, therefore, made under protest." The transmittal also requested the immediate effectiveness of Plans R-7, R-8, and Rider No. 19 notwithstanding Carolina's simultaneous motion to postpone the effectiveness of the order of 31 August 1967.

The Commission scheduled and held oral argument on Carolina's Notice of Appeal and Exceptions and Motion to Stay. The Company also argued its request for the immediate effectiveness of Plans R-7, R-8, and Rider No. 19. Protestant-Intervenor, Homebuilders, filed formal objections to the revised plans.

The Commission issued its order of 20 October 1967 postponing the effectiveness of its order of 31 August 1967 to and including 5:00 p.m. on 15 December 1967, and setting further hearings in the docket for 28 November 1967. The scope of the hearings was declared as ". . . for the purpose of hearing all parties on whether Respondent's filed Plans R-7, R-8, and Rider No. 19 comply with the Commission's order of 31 August 1967, and whether the same is otherwise just, reasonable, and lawful."

Ruling on Carolina's filed exceptions was withheld pending consideration of Carolina's revised plans, which it urged be approved and made effective as soon as possible.

The immediate questions for determination are as stated in the order of 20 October 1967 and quoted above. Carolina presented further evidence and position statements intended to show that Plans R-7, R-8, and Rider No. 19 are in compliance with the Commission's order and are otherwise just and reasonable. Protestant-Intervenors presented no evidence, but participated through cross-examination of the Company's witness and on brief.

Briefly, Carolina's Plan R-7 contains provisions for installations in new residential developments, Plan R-8 contains the Company's provisions for installation other than residential, and Rider 19 is a statement in rate tariff form of the amount ($2.00) by which the monthly billing under the applicable residential service schedule is proposed to be increased. The provision of street lights is governed by existing rate schedules and not by Carolina's revised plans.

I. Plan R-7

A. / General - This plan provides that each residential and commercial customer within new residential developments will pay a special monthly charge, stated by reference to

Rider 19, for the extra cost of underground facilities to serve him. The monthly charge of $2.00 is derived by taking the same average estimated cost differentials developed initially by Carolina by these proceedings for application to low capacity customers ($ .85 per front foot lot plus $80 per small service connection), relating this to the average front footage per lot (104.7 ft.) which Carolina found in twenty-one (21) projects and reducing the total by $32, for an adjusted average estimated cost differential per average lot of $137. This differential is then multiplied by 1.5% (18% annually) for a monthly charge of $2.06, rounded to $2.00. Thus, there are two functions operating on each other to make the charge: The base charge of $137 per average lot and the rate of 1.5% monthly.

B. The Base Charge for New Underground Developments - The base charge of $137 for application in Plan R-7 consists of two components:

(1) An estimated average cost differential of $ .85 per front foot lot for the primary and secondary systems, producing a charge of $89 per average lot (104.7 ft. front); and

(2) A base charge of $80 for each low capacity service connection. The company takes this $80 figure from the previous hearing and - consistent with its previous contention that there is no cost differential for installing a high capacity service lateral underground, but an $80 cost differential for low capacity per service lateral installation - it averages the $80 cost in the ratio (60%) of the Company's new housing projects which it is now installing for low capacity (i.e., not all-electric or space-heating) usage. This produces $48 as the average per lot charge attributable to the service lateral. The sum of the two components is $137.

C. The Base Charge for Underground Service in Overhead Areas - The base charge for underground installations in overhead distribution areas is developed somewhat differently, but with the same result as above. The Company again assumes that the cost difference for high capacity installations is zero and that the difference for low capacity installations is $80. It then weights its computations by 40% for all-electric and 60% for low capacity installations and further weights its base cost computations by assuming 50% of the total connections in overhead distribution areas will be to houses located on the same side of the street as the overhead primary, that 40% will be to houses across the street where a service pole is not installed, and that 10% of the total service connections will be made to houses across the street where a service pole is installed. A summary of these weighted averages and the results produced is as follows:

(1)	Houses on same side of street as primary Weighted difference in cost	$ 55.15
(2)	Houses across the street - service pole not installed Weighted difference in cost	60.00
(3)	Houses across the street - service pole installed Weighted difference in cost	11.03
(4)	Extra allowance to low use customers for house power panel and riser Weighted additional cost	22.17

Weighted cost difference for underground service connection in an overhead area: $148.35

D. The Monthly Charge - To produce the $2.00 monthly charge which is applicable under Plan R-7 and is minima under Plan R-8, the Company assumes that the $137 and the $148 average per lot base cost differentials developed as described above are "extra facilities." This "extra facilities" charge is then developed as follows:

Return	6.50%
State and Federal Income Tax	4.80%
Ad Valorem Tax and Insurance	0.87%
Depreciation	2.43%
Maintenance and operation Expense	2.82%
Sub Total	17.42%
Gross Receipts Tax 6%	1.11%
Total Facilities Charge	18.53%
Monthly Facilities Charge	1.5 %

1.5% x $137.00 = $2.06, rounded to $2.00
1.5% x $148.35 = $2.23, rounded to $2.00

E. Special Charges and Conditions on Developer - Plan R-7 contemplates further extra facilities charges of 1.5% and contributions in aid of construction for those types of investment costs which do not occur in the majority of new projects and which do not lend themselves to the averaging used in developing the uniform charge for customers. These investment costs are typified by situations where special or extraordinary facilities must be installed specifically to serve an individual customer. For example, if the average lot frontage exceeds 120 feet, a developer is required to contribute to the Company an amount per lot equal to $ .45 times the total by which the average footage per lot exceeds 120 feet.

Developers must also make contributions in aid of construction where temporary facilities are required by the developers' operations, where the Company must incur extra

expense to go under the pavement or to cut and replace pavement, and where normal materials and methods cannot be used, such as in watery or rocky soil, high corrosion areas, etc. In addition, the requesting party must furnish necessary easements and rights of way for the underground system, and must cut and clear rights of way, although by amendment the requesting party may have the Company clear the right of way and make a contribution of the cost thereof.

The requesting party must also pay a contribution if the desired installation is different from the Company's design and more costly, or if the requesting party changes his plans in such way as to require relocation or abandonment of Company's facilities. Developers must reimburse the Company if his contractors or subcontractors damage Company facilities.

If a customer desires a delivery point at any point beyond the Company's standard delivery point, he must contribute $ .80 for each additional foot of service connection installed to meet his delivery point and, in any event, must contribute $ .80 for each foot in excess of 150 feet of service connection.

The plan further provides that, if bulk feeders are installed, the developer must contribute the difference in cost between overhead and underground.

Plan R-7 also contains a provision by which persons under prior contract with the Company for the payment of contributions in aid of construction may convert to the facilities charge method after obtaining consent of all affected existing customers.

II. Plan R-8

A. General - Plan R-8, which relates to all installations other than residential and commercial houses in residential developments, street lighting, and facilities greater than 23 kv, contains basically the same availability provisions as Plan R-7. The remainder is divided into two parts. The first part gives situations in which special charges and contributions will be required and how they will be assessed. The second part describes conditions under which the Company will install underground facilities without special contribution or monthly facilities charge.

B. First Part of Plan R-8 - Special Charges -

(1) New Individual Commercial and Industrial Installations - Section A of Plan R-8 deals in three parts with the installation of underground facilities under special charge to commercial and industrial customers located other than in new residential developments. The first of these parts covers initial installations and provides that the customer

will pay a monthly charge equal to 1.5% of the difference between the installed cost of the underground facilities and the estimated cost of the normal overhead facilities that would have been provided. The customer has the option of performing his own trenching, backfilling, cutting, and replacement of pavement, and furnishing transformer pads, with appropriate credit against his special charge. The customer must install, own, and maintain any transformer vault or special enclosure. The $2.00 monthly charge in Rider 19 is established as the minimum monthly extra facilities charge so long as there is any estimated cost difference.

(2) Conversions and Additions - Under this section of Plan R-8, the customer will pay a monthly facilities charge equal to 1.5% of the cost of the underground facilities plus the cost of removing the overhead facilities, less a credit for the salvage value of the overhead facilities. Where additions or replacements require a heavier facility than the already existing facility due to increased load, the customer is also credited with this cost. The $2.00 monthly facilities charge is also established as the minimum for these categories. In commercial and industrial situations, the customer must sign a contract to pay the monthly facilities charge for a term not exceeding ten years.

(3) New Installations in Commercial and Industrial Parks - Plan R-8 further provides a variant for commercial and industrial parks. Under this provision the developer must contribute the Company's estimated cost differential for the primary system. Then, when customers are later located and connected, they must pay the estimated cost differential for placing their service connections underground.

(4) Residences not in Developments - Section C of Plan R-8 relates to the installation of underground service to residences not in developments, both new installations and conversion of overhead facilities to underground. These customers are to pay the $2.00 monthly facilities charge, except that they are also to pay all amounts by which the Company estimates its additional investment will exceed $150. These customers are further subject to the special charges and contributions relating to delivery points, ground conditions, etc., as provided in Plan R-7 for residential developments.

C. Second Part of Plan R-8 - No Special Charges - The remaining provisions of Plan R-8 set forth three situations where no special charge will be made:

(1) Where the Company estimates no cost differential between overhead and underground installations;

(2) Where the Company will participate with a community in the rehabilitation of a downtown area, the salient requirement being that undergrounding be a part of a general municipal program for the improvement of at least two blocks of the area; and

(3) When load density, structural congestion, or physical characteristics render overhead facilities impractical.

III. Rider 19

As already stated, Rider 19 is simply a mechanical implementation of Plans R-7 and R-8 in that it does nothing more than state the amount ($2.00) of the monthly facilities charge referred to in the plans.

IV. Findings and Conclusions

Having fully considered Respondent's exceptions to its order of 31 August 1967, its Plans R-7, R-8, and Rider 19 filed pursuant to said order, the evidence adduced on further hearings, and briefs and arguments of counsel, the Commission now makes the following Findings and Conclusions:

A. The Surcharge Method of Cost Recovery v. Contribution in Aid of Construction - Carolina's first plan for the installation of electric facilities underground (filed on 2 December 1966) utilized the contribution in aid of construction method of recovering the average cost differentials which the Company contended it incurred in placing facilities underground.* Counsel (who is also the head of Carolina's Rate Department) in his opening statement stated, ". . . we may be back proposing a different method, and perhaps not too far away, as we encounter competition that offers and holds itself out by a public filing to offer underground for this business may very well force us into a surcharge . . . We recognize that tomorrow may require a different approach . . ." (Tr. Vol. I, p. 9).

* In pertinent part, this plan required low use residential customers to contribute $165 per 100-foot lot and "all electric" customers to contribute $85 per 100-foot lot, with extra costs and provisions similar to, but not set out as fully as, those in Plans R-7 and R-8.

Carolina's officer for marketing testified that the Company had to his knowledge lost three subdivisions totaling 462 lots to, and was under continual competitive threat from, electric suppliers who installed electric facilities underground without charge. (Tr. Vol. I, p. 130).

Counsel's prophecy became reality even before the Commission could issue its order in the hearing, as Carolina filed an amended plan providing for a surcharge.**

**This filing was rejected without prejudice on procedural grounds.

The Commission's order of 31 August 1967 issued disapproving Carolina's filing (primarily on the basis of its incompleteness and the unlawfully discriminatory and promotional features which the Commission found therein) and authorizing Carolina to file a plan "in the form of a surcharge" for recovering its actual cost differentials, if any were proposed to be recovered.

Carolina promptly filed Plans R-7, R-8, and Rider 19 in an effort to comply with that order. Counsel has continuously urged competitive grounds as a major reason for the Company's request that it be permitted now to apply a surcharge rather than a full contribution in aid of construction plan.

The Company first developed its surcharge plan in response to electric supplier competition and developer demand and then in response to the Commission's authorization. After the order of 31 August 1967, Carolina represented to its customers that some form of surcharge would not only be sought by it, but that the Commission would require it. This we think was a reasonable interpretation of the Commission's order.

Nevertheless, there has been much discussion in the various arguments and further hearings to the effect that the Commission should now require Carolina to utilize exclusively the contribution in aid method of recovering cost differentials for installation of electric facilities underground.***

*** In its eagerness to obtain approval of some plan as soon as possible by the Commission, the Company has offered an optional basis whereby the developer may elect a contribution in aid or a surcharge for the average cost differentials proposed. This will be discussed later.

We are of the opinion that it would be substantially prejudicial of Carolina's rights to attempt in this order and on these further hearings to require Carolina to abandon a surcharge plan in favor of exclusive use of a contribution in aid plan. Our reasons are as follows:

(1) The question of whether a contribution in aid of construction or a surcharge method is to be used in recovering cost differentials is not one of inherent principle, but of practicalities. Neither method is more than a mathematical function for the collection of revenues not contemplated by base rates. Management's discretion in determining the most practical method of payment of charges otherwise reasonable and not unjustly discriminatory should not be interfered with by the Commission.

(2) The use of the surcharge as a method of collecting revenues in temporary situations is well supported in law, reason, and application. The evidence before us in these further hearings supports the method; there is no evidence of record in these further hearings against the method; none of the Protestant-Intervenors oppose it as a method.

(3) The Commission by its order of 31 August 1967 authorized the surcharge method for use by the Company if it proposed to recover additional charges for installations underground. With said order outstanding, and with the Company before us to determine whether it has complied, it would be violative of Carolina's rights of due process here to deny it the use of the method.

(4) The use of the surcharge method has lawful competitive advantages to Carolina which we may not require the Company involuntarily to forego.

B. The Reasonableness of Carolina's Base Charges in Plan R-7 - We are unable to hold that Carolina's cost differentials ($137 for residences in underground areas and $148 for residences in overhead areas) which are functions of Carolina's surcharge are just and reasonable because:

(1) They are derived from estimates used in the previous hearings in justification of Plan R-6 and were disapproved in those proceedings because they were based on distinctions between the end use of customers and the revenue they would produce and were not based upon projects actually installed as estimated. While Carolina in these further proceedings has adjusted the base averages by 40% for all electric homes, has made some adjustments for the fact that house power panels and risers are given to all electric overhead customers, and has submitted an additional project sampling in corroboration of the level of its previous averages, it is still apparent that the base cost differential, particularly as it relates to service laterals, is predicated on revenue rather than cost differentials.

(2) The cost differential estimates used as a basis for averaging cost differentials for the service lateral cost portion of the base component is not from systemwide, actual experience.

(3) The cost data making up the base components is not the most current cost data and does not make sufficient allowance for declining cost trends in underground installations which was testified to in the earlier proceedings and which the Commission found to be in existence in its order of 31 August 1967. Nor do the base charge computations allow for savings available from joint trenching.

We must again point out, as in the first order, that it may be that Carolina's records and its experience have not been such as to permit a precise showing of actual systemwide average cost differentials. Certainly, the evidence on further hearings does not permit such a finding.

We believe these proceedings should, therefore, be held open for sufficient time to permit further efforts to develop appropriate cost data based on actual records and experience. We are further of the opinion that Carolina should keep accurate cost data on its underground installations and should report such data to the Commission periodically and that the Commission's staff and the Company should carry out continuing studies for the purpose of verifying all said data and reviewing all charges and procedures provided in the revised and amended plan and modifying said procedures and reducing or eliminating said cost differentials when and to the degree justified.

C. The Monthly Charge - The installation of electric facilities underground in new residential developments is for all practical purposes standard, primarily because FHA and VA (which are involved in approving the great majority of new residential developments) require it in their loan guaranty evaluations. This means that electric facilities underground in new residential developments are not "extra facilities" in the sense that term is used elsewhere in tariff filings by the Company. Such installations will now be in the majority of new residential developments. They are not "extra" in the sense that they are not needed by the customer if, as a practical matter, he is to have electricity; they now are more realistically described as "standard installations which cost more." Traditionally, a generally required and demanded installation with substantially greater investment costs becomes a service classification to which a new base rate is applicable. Such a generally demanded service which does not involve substantially greater investment costs traditionally has been absorbed in the base rate of the applicable class of service. Costs are not exactly equated among customers within a class under a base rate; they are merely so nearly equated that no inequity results from a standardized, or average, rate that covers all costs. When a generally demanded service requires substantially more revenue for a temporary, or emergency, period, a surcharge has often been applied. A surcharge does not amortize an investment or permit it to be paid on the installment plan. It is a temporary measure to make up revenue requirements attributable to the service until the costs are nearly enough equated to other services in the class to be absorbed in the base rate.

We are, therefore, of the opinion that an "extra facilities" charge for installation of electricity underground to residences is a misapplication of that device as used elsewhere in other tariff filings of the Company. Further, the Company's consideration of normal underground

installations as "extra facilities" results in a charge against the user of electricity at a rate above the applicable base rate greater than normal services may justifiably be expected to bear. It must be kept in mind that the customer must have electricity and the Company generally must supply it under its applicable base rate. The only difference is that the customer here is also normally required to have the service underground. This is a condition of service which costs the Company more, but not enough more to justify a new base rate.

Since we do not believe the installation of electric facilities underground is properly an "extra facility," we believe the surcharge here should take into consideration that normal depreciation and maintenance are already contemplated in the base rate and that, in the absence of a showing of abnormal depreciation or maintenance, the Company should charge only the additional revenue requirements associated with the service, including an allowance for return, ad valorem taxes, and income and franchise taxes attributable to the revenue derived from the surcharge. In this, we are of the opinion and hold that a monthly charge of $1.25 rather than the $2.00 charge in Rider 19 is just, reasonable, and sufficient, will adequately compensate Carolina in light of additional, extraordinary charges made of developers in Plans R-7 and R-8, and will enable Carolina better to compete for the sale of electricity. We are further of the opinion that a 12% annual charge (1% monthly) is reasonable for application on other special charges in Plans R-7 and R-8.

D. Special Charges and Conditions Applicable to Developers - While the Protestant-Intervenor, Homebuilders, strenuously objects to many of the special charges and conditions on developers as contained in Plans R-7 and R-8, we find only one such charge or condition capable of interpretation inconsistent with the provisions of the order of 31 August 1967. This provision is as follows: " . . . Developer will contribute to Company the estimated cost of repairing or replacing any underground equipment damaged by such contractor or subcontractor during development of the subdivision." We are of the opinion that such liabilities and compensation are amply provided by rules of civil law and that it is unreasonable, as a condition for receiving electricity to require the developer to contract to indemnify the Company for damages other than those for which he is otherwise liable at law or is willing voluntarily to indemnify.

With the foregoing exception, we hold that all special charges and conditions applicable to developers in Plans R-7 and R-8 are in compliance with the Commission's order and are reasonable for application, subject to the rate of charge herein approved.

E. Carolina's Plans R-7A and R-7B - As already mentioned, Carolina filed with its brief after further

hearings Plans designated R-7A and R-7B. Essentially, these plans are the same as those previously discussed other than that they afford developers the election to pay a contribution of $135 per residential lot in lieu of the proposed surcharge. An installment method for payment of aggregate contributions for developments is also offered. We hold that Plans R-7A and R-8A must be disapproved and rejected because:

(1) As already stated, we cannot determine from the evidence that the base cost of $135 (rounded from $137) per lot is an actual, reasonable, and current cost differential, and

(2) Such an optional procedure vested in the developer would tend to result in disparate rate treatment of residential customers receiving similar service through similar facilities.

F. Payment of Cost Differentials by Commercial and Industrial Customers Outside Residential Developments - We are of the opinion, after further hearings and evidence, that Carolina's exceptions to the Commission's order of 31 August 1967 are well taken insofar as the order may be taken to require that commercial and industrial installations be handled on a uniform basis the same as residential installations. We recognize that commercial and industrial installations are so few in number compared to residential developments, and are installed under such diverse conditions of service and cost, that individual treatment by projects rather than through uniform, or average, base cost differentials is the only presently available and fair method of treating them. We are further of the opinion that commercial, industrial, and governmental installations should be allowed to contribute the cost differential specifically applicable to them rather than signing a long-term contract for the monthly charge herein approved, if they choose to do so. Likewise, developers who are assessed for specific costs or conditions not contemplated by the surcharge should be permitted, if they choose, to contribute these amounts rather than pay the surcharge under long-term contract at the rate herein approved.

Accordingly, IT IS ORDERED:

1. That the effectiveness of the order in this docket issued 31 August 1967 be, and the same hereby is, further stayed upon the express terms and conditions that Carolina Power & Light Company place into effect and observe its Plans R-7 and R-8 and Rider 19 as herein modified, approved, and authorized to be made effective.

2. That Plans R-7 and R-8 and Rider 19, as amended in these proceedings be, and the same hereby are, approved and allowed to become effective at 5:00 p.m. on 15 December 1967, except that the monthly charge of $2.00 as provided in Rider 19 and the rate of 1.5% as provided in Plans R-7 and

R-8 be, and they hereby respectively are, disapproved and their effectiveness for application in these plans denied. Pending further order as herein provided, Respondent is authorized to make an additional monthly charge of not more than $1.25 in Rider 19 in lieu of the proposed charge of $2.00 and to provide a monthly rate of not more than 1% in lieu of the rate of 1.5% at all places they are mentioned in Plans R-7 and R-8.

3. It is further provided and made a condition of this order and of the stay and postponement herein authorized, that Respondent, Carolina Power & Light Company, shall accord commercial, industrial, and governmental customers requesting installation of electric facilities belowground in areas other than residential developments the option of paying any cost differential specifically associated with said installation by direct nonrefundable contribution rather than through long-term contract as herein approved.

4. It is further provided and made a condition of this order and of the stay and postponement herein authorized that Respondent, Carolina Power & Light Company, shall accord developers incurring any of the costs individually computed as set out in Plan R-7 (i.e., those not subject to averaging for the surcharge) the option of paying any such specifically applicable cost differentials by direct, nonrefundable contribution rather than through long-term contract or surcharge as herein approved. It shall not be a part of any contract which a party is required to sign as a condition of receiving service under the plans herein approved that said party shall indemnify the Company for damages to Company property for which the party is not otherwise liable at civil law or under established rules of the Commission.

5. That Respondent, Carolina Power & Light Company, shall keep separate, accurate records of its distribution construction costs, maintenance expense, and revenues and contributions related to installations made under the conditions of this order and shall, beginning on 15 April 1968 for the first three months of 1968, and on the 15th of each fourth month thereafter, report the same to the Commission substantially in manner and form to be approved by the Commission. The records upon which said reports are based shall be made available to the Commission's Staff for inspection, verification, and study upon reasonable request to do so.

6. That this docket and these proceedings shall remain open for further consideration and further hearings on motion of the Commission or on motion of any party giving grounds found to be sufficient to justify such further hearings and determinations sought. The Commission hereby gives notice it will, not later than one year from the date these plans become effective, review all data kept and all reports filed with a view to determining whether the charges

and conditions herein approved for application may be eliminated or otherwise modified.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 139

WESTCOTT, CHAIRMAN, DISSENTING: As the attached order of the majority states, the Commission scheduled and held oral argument on Carolina Power & Light Company's Notice of Appeal and Exceptions and Motion to Stay with respect to the order issued by a majority of the Commission on August 31, 1967. Again the record of evidence in this phase of the case is clear that underground installations in residential developments are generally more expensive to install than overhead electric service. No new evidence was offered at the hearing on November 28, 1967, to refute the evidence offered at the original hearing upon which the order of August 31, 1967, was entered. In my opinion, underground installations enhance the value of property and this fact is recognized by the Federal Housing Administration and the Veterans Administration which finance or guarantee the financing of a large number of residential developments. According to the record of evidence in the original case, loans have been increased on residences served by underground installations, which fact, in my opinion, recognizes the increased value of property with underground installations.

Therefore, it is my opinion that the value of property should not be confused or commingled with the rate structure wherein surcharges are assessed the home owner or the residential occupant. I do not consider the surcharge for underground electrical service to be justified as an extra facility charge when it furnishes to the residential occupant the same energy requirements as would overhead electrical service. The underground installation has its aesthetic value, it is true, and to me that value is a property value and should be so considered.

H.T. Westcott, Chairman

I concur in this opinion.

Clawson L. Williams, Jr., Commissioner

DOCKET NO. E-2, SUB 139

BIGGS, COMMISSIONER, CONCURRING: I became a member of the North Carolina Utilities Commission after the order dated August 31, 1967, was entered in this cause. The proceedings

that resulted in the entry of that order have not been reopened so as to entitle me to consider its propriety, and therefore I accept it as binding upon me in my consideration of the further proceedings had in this matter since that time. These subsequent proceedings have involved a consideration of Plans R-7, R-8 and Rider No. 19, filed by Carolina Power & Light Company in compliance with said August 31 order, and of the consideration of Plans R-7A and R-8A filed by Carolina in the alternative in response to a suggestion from the Commission made at the time of the hearing on Plans R-7, R-8 and Rider No. 19.

Inasmuch as I did not participate in the proceedings that resulted in the August 31 Order, I disassociate myself from any language in the majority order which tends to reiterate any of the Findings or Conclusions stated in that order. I do concur in the Findings and Conclusions as stated in the order which relate to the proceedings that have taken place since I became a member of the Commission, and I concur in the decretal portion of the order which is based thereon. I realize that the installation of underground electrical facilities in residential areas is a relatively new thing and is in the development stage, and it is my hope and expectation that the electrical suppliers in this State, including Carolina Power & Light Company, will shortly find ways and means of eliminating the added costs of providing electrical service underground. So long as such differential exists, however, I feel that the company should be allowed to recover these excess costs (indeed, such charge is required in order to eliminate discrimination between ratepayers), and I consider that the method by which the recovery of such costs shall be made was established by the August 31 order which is binding upon me.

M. Alexander Biggs, Jr., Commissioner

DOCKET NO. E-7, Sub 96

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Amendment to Duke Power Company service regulations relating to installation of underground transmission, distribution, and service facilities) ORDER

HEARD IN: The Hearing Room of the Commission, State Library Building, Raleigh, North Carolina, on February 15, 1967, at 9:00 a.m.

BEFORE: Chairman Harry T. Wescott and Commissioners Sam O. Worthington, Clarence H. Noah, John W. McDevitt, and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

For the Respondent:

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For: The Using and Consuming Public

For the Commission Staff:

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ELLER, COMMISSIONER: These proceedings arise from notice issued November 1, 1966, by the Commission to all electric utilities and electric membership cooperatives operating in North Carolina requesting each to file in tariff form for approval their rates, charges, rules, and regulations governing the provision of electric services and installations underground. Pursuant to the notice and in apt time, Duke Power Company (Duke) filed a first revised Leaf B superceding the original Leaf B and a first revised Leaf C superceding the original Leaf C of the Company's service regulations.

The Commission initiated a general investigation into the justness and reasonableness of the revisions in tariff regulations and the practices thereunder without suspending their effectiveness, scheduled public hearings, and directed public notice of the hearings. Hearings came on after notice and were heard with Protestants and Intervenors present and participating as captioned.

Duke contends generally, and introduced evidence intended to show, that its revisions, and its practices thereunder, are just, reasonable, and otherwise lawful and tends to prevent unjust discrimination by requiring contributions in aid of construction from customers in cases where Duke estimates that the cost of installing services underground will exceed overhead installation costs.

While none of the Protestants and Intervenors contend identically, all generally contend that Duke's revisions are indefinite, uncertain, and do not correctly and completely set forth Duke's actual practices, that the revisions and practices thereunder are unlawfully promotional of exclusive use of electric energy in homes and businesses, and that the revisions and practices thereunder are unjustly discriminatory.

Having considered the testimony, exhibits, admissions, stipulations, arguments, and briefs presented on behalf of all participants in light of applicable law, the Commission now makes the following

FINDINGS OF FACT

1. Duke Power Company, the Respondent in these proceedings, is a duly created and existing corportion and a duly authorized and acting public utility engaged in the

generation, transmission, distribution, and sale of electric energy in North Carolina and is properly before the Commission, which has jurisdiction over the Company and the subject matter of the proceedings.

2. The great majority of Duke's transmission and distribution facilities are aboveground, the notable exceptions being

(a) Where Duke at its option and without extra charge places such facilities belowground because aboveground installation is physically or economically unfeasible, illustrations being extremely high density commercial "mid-town" urban areas, long water crossings, airport runway areas, and other physical and geographic obstacles;

(b) Where Duke enters an agreement with persons requesting belowground service and then installs its facilities underground, even though Duke considers aboveground installation more feasible, an illustration being new residential developments and outlying shopping centers.

Duke makes a charge, called a "contribution in aid of construction", for some of these installations and makes no charge for some. Where contributions have been required, they have ranged from $9.00 per lot to $99.00 per lot, such amounts being subject to refund within periods ranging from two to three years for each lot on which there is constructed a facility using electricity as the sole energy source. Almost invariably, the contributions are required of parties requesting belowground service but not agreeing to install electricity as the sole source of energy in the houses, subject to the aforesaid refund for each lot on which an "all electric" house is later constructed. Almost invariably, no contribution is required of parties agreeing to construct all electric homes on the lots for which the service is requested. Since 1962, Duke has installed facilities underground in some 590 projects by request and agreement and has taken about 777 contributions in aid totalling $327,555.00.

3. Dating from about 1962, the demand for installation of utility facilities underground has been growing at an increasing rate. This is attributable in part to the advantages the method offers in greater safety for those in the immediate areas, reduction in outages due to storms and other hazards, aesthetic benefits from preservation of the natural beauty of the areas, and substantial increases in appraised values of lots in the areas affected. The increasing demand is also due to policies of the national, state, and local governments, practically all of which encourage or require the installation of utility facilities belowground in new residential developments. The Federal Housing Administration and the Veterans Administration, which now finance or guarantee the financing on the majority of new residential developments, require that all utilities

in the developments be installed belowground except in cases of unusual hardship. Some municipalities have passed ordinances requiring these facilities to be belowground and a number of cities and counties are considering such ordinances.

4. The installation of electric distribution systems belowground in new residential subdivisions generally costs more than to install the same facilities overhead, but the margin is narrowing rapidly due to developments in manufacturing technology, economies of scale, and constantly improving installation techniques. Illustrations of these cost-reducing influences are: improved, more portable and versatile trenching machinery, sheathing of conductors for protection against water and insulation from external interferences which eliminates metal conduits, joint uses of trenches for both electric and telephone conductors laid at random (i.e., without special attention to separating the two wires) and more compact, individualized transformers tending to eliminate secondary distribution lines. In addition, the installation of electric facilities below ground offers cost savings which, although tangible, are presently immeasurable. Typical of these savings are the generally anticipated lower depreciation rates associated with buried facilities as contrasted with comparatively short-lived wood poles, elimination of extraordinary maintenance such as results from ice, snow, and windstorms and vehicular collisions with facilities, anticipated lower ordinary maintenance costs, and reduced personal injuries claims, since underground facilities "short-out" in the ground when interfered with and do not burn or electrocute those contacting or breaking the conductors.

5. While the evidence indicates that actual costs of installing electric facilities in new residential developments belowground exceeds actual costs of installing comparable facilities overhead, and we have so found, the evidence does not permit a finding of any exactitude on the amount of such excess costs, even for average, or typical, conditions. This is so because Duke's maintenance and depreciation records and accumulated history for underground facilities are of recent origin; nor have records been kept on a project-by-project basis, either for overhead or belowground installations. The present difficulty in measuring savings associated with increased safety and freedom from surface hazards which attend belowground installations is also a deterrent in making exact findings.

6. In meeting the increasing demands for burial of its facilities in new residential developments, Duke has followed an unwritten policy. The amended service regulations filed by Duke in this docket are for the purpose of stating the principles and practices with respect to installation of underground facilities which the company has followed since 1961 and which it now proposes to continue, subject to approval by the Commission. In particular, Duke has amended its service regulations tariff (Section II of

First Revised Leaf B and Sections V and VI of First Revised Leaf C) through revisions and additions as follows:

(a) First Revised Leaf B supercedes original Leaf B by adding a new paragraph entitled "Contributions in aid of Construction" and reading as follows: "The Company may, at its option, require contributions in aid of construction, in lieu of monthly charges under its Extra Facilities clause, defined elsewhere herein, when it is requested to provide facilities which are economically unfeasible, or which differ from, or which are in addition to, the minimum facilities necessary for delivery of service in accordance with the applicable rate schedule and these service regulations."

(b) First Revised Leaf C supercedes original Leaf C by adding four new paragraphs under Section VI and changing its heading from "Service Connections" to "Transmission, Distribution, and Service Facilities," viz:

"The Company's transmission, distribution, and service facilities will be installed above ground on poles, towers, or other fixtures; however, in areas where it is physically or economically unfeasible to place facilities above ground, due to structural congestion, load density, or other factors, the Company may, at its option, place said facilities belowground if such is technologically practicable.

"As used herein, the term 'below-ground facilities' will include conductors, but may or may not include transformers, circuit breakers, and associated equipment.

"In areas where economic feasibility favors above-ground construction, the Company may place said facilities belowground by agreement with persons requesting same, provided such persons (a) render a contribution in aid of construction equal to the amount by which the cost of the below-ground facilities exceeds the cost of the above-ground facilities, or, at the Company's option, (b) pay a monthly extra facilities charge based upon the amount by which the cost of the below-ground facilities exceeds the cost of the above-ground facilities. The design of both the above-ground and the below- ground facilities shall be in accordance with established Company practices and shall be based on the capacity requirement of each project.

"The Company may replace existing above-ground facilities with below-ground facilities provided the persons requesting the same reimburse the Company as set forth in (a) or, at the Company's option, (b) above, plus the loss from retirement of existing above-ground facilities."

7. The result of the amended regulations is to separate the Company's written policy for the installation of facilities belowground into three general categories:

(a) Those areas typified by "mid-town" areas where load density, structural congestion, physical or geographical obstacles, or other factors render it economically unfeasible to place facilities above ground. In these areas designated by the Company, Duke will, at its option, place facilities belowground at no extra charge;

(b) Those areas typified by new residential developments and outlying shopping centers where the Company generally considers economic feasibility to favor overhead construction and which it ordinarily would serve with overhead facilities at no extra charge, but for a request for installation of the facilities belowground. In these areas the Company, at its option, places the facilities (i.e., at least the conductors) belowground by agreement, provided the requesting party pays in advance an extra amount (contribution in aid of construction) equal to the amount if any by which Duke estimates the cost of installing the facilities belowground will exceed Duke's estimated cost of installing the facilities overhead. Under the filed regulations, the foregoing charge if any, may also be made in the form of an unspecified monthly extra facilities charge, although this method of payment as a practical matter is available only to parties such as owners of shopping centers and industries who do not build for sale and are therefore in position to sign long-term contracts.

(c) Areas already served by overhead facilities and requesting replacement of these facilities with belowground facilities. In these areas, Duke at its option, replaces existing aboveground facilities with belowground facilities provided the requesting party pays an amount computed as in (b) above, either in the form of a contribution in aid or a monthly facilities charge, as Duke in its option elects. In addition, such parties pay the company's loss from removing and retiring the overhead facilities.

The term facilities as used in the regulations generally means all facilities under paragraph (a) above. In paragraphs (b) and (c) it generally means that the conductor will be placed belowground with the transformer, circuit breakers, and associated equipment pad-mounted on the ground.

8. The following practice has obtained and is permitted by the filed policy if continued:

(a) In determining cost differentials the Company prepares its estimates for both overhead and underground systems on a project-by-project basis using the company's approved design plans. For estimating purposes the company makes a distinction between units with low capacity requirements and high capacity requirements. Units requiring 100 amperes capacity service entrance facilities or less are low capacity; high capacity

requirement units are those with greater than 100 ampere service entrance capacity. This has been actually applied as if the term "low capacity" were synonymous with units other than all-electric and as if high capacity were synonymous with all-electric units, or units able to qualify for the company's all electric (RA) rate schedule and for all practical purposes the terms are synonymous in application;

(b) When a party requests underground installation for a project determined by the company to be low capacity requirements, four estimates are made: (1) low capacity overhead; (2) low capacity underground; (3) high capacity overhead; (4) high capacity underground. The two low capacity estimates are then compared to each other as are the two high capacity estimates. The low capacity underground estimate normally exceeds the low capacity overhead estimate; the high capacity underground estimate normally is the same as or lower than the high capacity overhead estimate. If the requesting party continues with a low capacity installation, he will be required to deposit in advance a contribution, the amount of which is determined by the company's estimate. If the requesting party installs high capacity requirements in all units, he ordinarily will not be required to make a contribution. The results of the estimates influence the requesting party's decision on whether or not he will construct units having electricity as the sole source of energy. Many builders and developers decide to install all electric units after being advised of these cost differentials. The requesting party is also refunded the pro rata part of his advance payment for each all electric installation he makes should he decide to make some but not all units in the project high capacity, or all electric.

(c) Where the requesting party plans to build only high capacity houses, the company estimates cost differentials only for high capacity overhead and high capacity underground and compares them. Normally, no cost differential results and no contribution is required.

9. The Company installs only one type of construction for underground residential and commercial developments, that being high capacity. The Company does not, and cannot now feasibly, determine and compare the actual costs of these underground installations, due to the fact that (a) the actual installation design can be entirely different from the design upon which the estimates were based; (b) the estimates made for overhead facilities are never installed and actual cost data is therefore impossible to obtain; and (c) standardized accounting procedures under the Uniform System of Accounts for electric utilities are not readily conducive to a determination of the actual costs of individual projects.

10. The result of the estimating procedures used and the inability to compare them to actual costs is that there is

no way to test the accuracy or validity of the methods used in determining cost differentials as referred to in the regulations.

11. Computations of the charge based solely on the estimated cost differential between low capacity overhead and low capacity underground when, actually all underground facilities are high, capacity does not reflect savings indicated by the high capacity estimates underground. In other words, a contributor reimburses the Company for investment which, according to Company estimates, it does not incur.

12. When the Company determines under the foregoing estimating procedure that a contribution in aid of construction is to be required for a project, it enters a written contract with the requesting party. The form of these contracts has not been approved by the Commission and Duke has not submitted these for approval. However, these contracts generally provide the amount of the contribution required and assure on a per lot basis a refund for each house subsequently built which qualifies for Duke RA (all electric) rate schedule. The period over which the developer may receive a refund varies from two to three years. The contribution is required to be paid in advance, although the Company in some cases defers such contributions until such time and only in the event low capacity homes are actually constructed. Some parties are charged with the cost of installing street lighting and some are not.

13. The components and prices used in the estimating procedures vary from project to project and within the estimates. For example: Meters and service do not correspond to the number of lots; transformers and concrete pads do not correspond between estimates, transformer capacities vary widely between overhead high capacity and underground high capacity, and conductor sizes are not generally related to quantities or capacity indicated. House power panels are included in some high capacity estimates and not in others.

CONCLUSIONS

The single broad issue before us is: Are the revisions in service regulations under investigation, and the practices thereunder, just and reasonable? We hold and conclude that they are not just and reasonable for the following reasons:

1. G.S. 62-138(a) requires every public utility to file with the Commission and to keep open to public inspection all schedules of rates, service regulations, and forms of service contracts, used or to be used, within the jurisdiction of the Commission. G.S. 62-140(b) empowers the Commission to make reasonable and just rules and regulations to prevent discrimination in rates or services and to prevent the giving, paying, or receiving of any rebate or bonus, directly or indirectly, or misleading or

deceiving the public in any manner as to rates charged for utility services. G.S. 62-140(c) requires filing with, and prior approval of, the Commission of a schedule of any compensation, consideration, or equipment to be offered or furnished to secure the installation or adoption of the use of a utility service. Commission Rule R8-25(a) governing electric utilities and grounded on the statutes provides:

> "Copies of all schedules of rates for service, forms of contracts, charges for service connections and extensions of circuits, and of all rules and regulations covering the relations of consumer and utility, shall be filed by each utility in the office of the Commission. Copies of such rates, rules and regulations shall be furnished consumers or prospective consumers upon request."

Commission Rule R8-1(b) declares the intent and purpose of the statutes and the rules:

> "The rules are intended to define good practice which can normally be expected. They are intended to insure adequate service and to protect the public from unfair practices and the utilities from unreasonable demands. The cooperation of the utilities with the Commission is presupposed."

We hold the regulations filed in these proceedings are not in compliance with the foregoing statutes and rules in that they are indefinite, uncertain and incomplete and do not perform their requisite function of informing the using public of their reasonable rights and obligations with respect to obtaining the installation of electric facilities belowground and do not contain sufficient standards to enable the Commission to assure compliance with provisions of law prohibiting discrimination, rebates, and bonuses.

2. G.S. 62-140(c) provides as follows:

> "No public utility shall offer or pay any compensation or consideration or furnish any equipment to secure the installation or adoption of the use of such utility service except upon filing of a schedule of such compensation or consideration or equipment to be furnished and approval thereof by the Commission, and offering such compensation, consideration or equipment to all persons within the same classification using or applying for such public utility service; provided, in considering the reasonableness of any such schedule filed by a public utility the Commission shall consider, among other things, evidence of consideration or compensation paid by any competitor, regulated or nonregulated, of the public utility to secure the installation or adoption of the use of such competitor's service."

We hold the service regulations filed in these proceedings, and the practices under them, are unlawful, under, and in violation of, the foregoing statute in that said regulations

and the practices thereunder have the primary result of inducing the exclusive use of electricity for all energy uses in customers' homes. That the company makes refunds of amounts already paid or installs facilities underground free where the requesting party installs electric-using facilities and appliances producing high use of electricity and high capacity electric service entrance facilities establishes that Duke is offering or paying compensation or consideration or furnishing equipment to secure the installation or adoption of its utility service within the purview of G.S. 62-140(c). Under the statute, we may not give approval of such practices unless we find: (a) such offer, payment, or furnishing is offered to persons using or applying for such service; (b) the offer is to all customers (within the class) without discrimination; and (c) is reasonable considering, inter alia, evidence of consideration or compensation paid by Duke's regulated or unregulated competitors. The evidence will support none of these three requisite findings.

3. G.S. 62-140(a) and (b) are as follows:

"(a) No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or services either as between localities or as between classes of service. The Commission may determine any questions of fact arising under this section.

"(b) The Commission shall make reasonable and just rules and regulations:

"(1) To prevent discrimination in the rates or services of public utilities.

"(2) To prevent the giving, paying or receiving of any rebate or bonus, directly or indirectly, or misleading or deceiving the public in any manner as to rates charged for the services of public utilities."

We hold the instant regulations and the practices thereunder to be unlawful under the foregoing provisions in that the regulations permit, and the practices thereunder confirm, that heavier users of electricity are, and would continue to be, provided underground service on more favorable terms than less heavy users. This constitutes an unreasonable preference to heavy users and an unjust discrimination against other customers in the same class and served at the same cost with substantially the same facilities. The heavier usage of electricity, and the reduced cost of service associated therewith, is already contemplated in the block rates and classifications in Duke's tariffs. A contribution in aid of construction is not a fair, reasonable, and just device for compensating the utility for

investment in facilities over and above that necessary to render service to the customer making the contribution. The regulations permit, and the practices thereunder confirm, that each project involves a separate rate, or charge, and each varies from no charge for some to various and differing amounts for others within the same class. The charges made are not founded on actual cost differentials, but upon estimates of cost which in turn are founded upon how much revenue the ultimate consumer will produce for the company. These estimates, particularly as to their distinctions between high use and low use of electricity, bear no relationship to definitions of high use and low use as actually installed.

4. We further conclude and hold:

(a) The installation of utility facilities belowground is a modern, improved service to which electric utility customers are entitled as rapidly as the service can be extended without unduly burdening the utility and its customers already served by facilities installed overhead.

(b) The difference in cost, if any, between providing electric utility services belowground and overhead should be borne by those receiving the benefits therefrom.

(c) The charges made to those receiving electric utility service underground, if any, should be on an actual cost of service basis and should be uniform as between all customers receiving the same, or substantially the same, service under similar conditions. The preferable way to recover such costs, if any, is through an approved rate, or surcharge, applicable on a fair and uniform basis as between all customers similarly situated and without distinction between high and low use customers.

IT IS, THEREFORE, ORDERED:

1. That those provisions contained in First Revised Leaf B superceding Original Leaf B and in the last two unnumbered paragraphs of First Revised Leaf C superceding Original Leaf C of the Service Regulations of Duke Power Company as filed in this docket, and the practices thereunto pertaining, be, and the same hereby are, disapproved. All said practices under the revisions herein disapproved shall cease and determine from and after the date this order becomes effective, subject to the completion and execution of any written contracts actually entered into prior to the date this order issues.

2. That all provisions contained in the revisions to the Service Regulations of Respondent, Duke Power Company, not specifically disapproved hereinabove in Ordering Clause Numbered 1 be, and they are hereby, approved.

3. That not more than thirty (30) days from the date this order becomes effective, the Respondent, Duke Power Company,

shall file with this Commission in tariff form its written statement assuring belowground installation of electric facilities to those requesting it for residential and commercial and industrial locations and providing for the replacement of existing aboveground distribution facilities with belowground facilities, subject to such reasonable, nondiscriminatory conditions as contemplated hereinafter in this order.

4. That, in the event Duke Power Company proposes to attach conditions to the provisions of any of the foregoing services belowground, the same shall be completely, accurately, and uniformly set out in said statement. It is further provided that, in the event Respondent, Duke Power Company, proposes to collect from customers or others any differences in cost for the installation of electric facilities belowground, the same shall be in the form of a surcharge to become a rider to the base rates paid by those receiving service through belowground facilities. Said surcharge, if sought, shall be based upon actual cost differentials, shall be uniform within the respective residential, commercial and industrial classifications, and shall make no distinction within the respective residential, commercial, and industrial customer classifications based upon capacity of service entrance facilities, revenue to be produced by the customer, or the end-use by the customer of electricity, or the estimated amount of use by customers or on any basis reflected, or properly to be reflected in the base rates applicable to such respective general customer classification.

ISSUED BY ORDER OF THE COMMISSION.
This the 31st day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. E-7, SUB 96

WESTCOTT, CHAIRMAN, CONCURRING IN PART AND DISSENTING IN PART: I first commend the author of the majority opinion for the competent analysis of the evidence of record in this proceeding. I concur generally in the findings of fact and conclusions of law, except the statement on page 13, "A contribution in aid of construction is not a fair, reasonable, and just device for compensating the utility for investment in facilities over and above that necessary to render service to the customer making the contribution"; and decretal paragraph No. 4 on page 15 which suggests a surcharge on rates for the recovery of differences in cost between underground and overhead installations. The evidence of record is clear that underground installations enhance the value of property and that such is recognized by the Federal Housing Administration and the Veterans Administration who now finance or guarantee the financing of many of the new residential developments. Loans have been increased on residences served with underground

installations, which in my opinion recognizes the value of property with underground installations.

The value of property in this instance should not be confused or commingled with a rate structure. Such leads only to burdensome and expensive administration and is confusing to the ratepayers assessed with a surcharge. It is my opinion that the difference in construction cost, if any, for underground installations versus overhead installations has to be determined before a reasonable surcharge can be calculated and that such determination should be considered an element of the value of property rather than the assessment of a rate differential between customers receiving the same kind of electricity for essentially the same end use.

H.T. Westcott, Chairman

DOCKET NO. E-2, SUB 139
DOCKET NO. E-7, SUB 96
DOCKET NO. E-22, SUB 86

WORTHINGTON, COMMISSIONER, DISSENTING: I have read with interest the order in this matter and note well that the result reached is entirely different and foreign to what the five Commissioners in conference formally agreed should be done. I assume, therefore, that the order represents the thinking of the author in deference to that of the five as determined in conference.

I am sure counsel for respondent will be able to diagnose and analyze the order. I desire, however, as one of my last official acts with the Commission, to here give some of the reasons why I disagree with the final results reached and why I feel that the order accomplishes nothing more than the possible postponement of the evil day of reckoning and determination of the issues involved.

I understand the order to find and declare as a fact that the installation of underground electric utility facilities for the furnishing of electric service is more costly than the establishment of overhead facilities for the rendering of the same service and that those who are going to receive the underground service should be required to pay that difference in cost. I certainly do not disagree with this finding if that is the meaning of the language in the order.

I gather from the record that the respondent company, through its filings, sought or seeks to recover the differential in cost as between underground service and overhead service and require that the developer or person responsible for the construction pay this difference or put up funds to guarantee the payment of this difference prior to the installation of the service in that it is more economical and more feasible in the installation of underground service to put the entire system in at one time rather than in sections as houses are constructed.

I understand also that filings of the respondent include certain items of cost such as maintenance and contingencies, which are not properly subject to be included in actual costs, and that the filings provide for certain refunds with respect to the use of current. I have no quarrel with the elimination of items and practices of this kind from the filings. I do not think they should have been included. The filings, therefore, stripped of cost items other than actual cost of construction and the practices concerning refunds in connection with the use of current, should have been approved, and the Commission should have established a sound, firm policy for the recovery by the respondent company from the developers, builders or contractors of the actual cost differential between underground installation and comparable overhead installation so that the purchaser of the property who eventually becomes the user of the electric service will pay this differential at the time of acquisition of the property. This would have ended the controversy.

In justification of my position I call attention to the record evidence that F.H.A. and other sources of construction funds, which require underground service before they will participate, recognize the increase in value of the property through underground installation of utility services and through such recognition increases the amount of its loans on such properties. Thus the purchaser, developer or contractor can acquire additional funds for the payment of this additional cost at the time of financing, and the user of service will pay for such service at the same rates and on the same basis that all other users of current pay under the same schedules. In this way the beneficiary of the improved property pays the cost of the improvement without any change in utility rates and without burdening, or the chance of burdening, other users of service under the same schedule.

For all practical purposes, however, the order holds the filings of the respondent company to be unjust and unreasonable and thereby denies the use of them. It then requires the respondent company, within 30 days from the date the order becomes effective, to file in tariff form a written statement assuring belowground installation of electric facilities to those requesting it for residential and commercial and industrial locations and providing for the replacement of existing aboveground distribution facilities with belowground facilities, subject to such reasonable and nondiscriminatory conditions as contemplated in a further statement. The further statement simply stating that if respondent power company proposes to attach conditions to the provisions of any of the foregoing services belowground, same shall be completely, accurately and uniformly set out in such statement, and if it proposes to collect from customers or others any differences in cost for the installation of electric facilities belowground, the same shall be in the form of a surcharge to become a rider to the base rates paid by those receiving service through

belowground facilities, such surcharge, if used, to be based upon actual cost differential.

Thus the order asserts as a fact that underground installations are more costly than overhead facilities and requires the company file tariff assuring the installation of underground service, upon request, even to the replacement of overhead facilities with underground service and leaves it permissive with the company as to whether it will require those demanding the higher cost facilities to pay the difference or simply let the other ratepayers of the company help pay this additional cost. If the company seeks to recover any of the additional cost due to the differential between the cost of underground installation and similar overhead installation, it shall do so only through a surcharge in the way of an extra charge to users of the service.

I strongly disagree with this particular part of the order. Basically I find myself in disagreement on four points.

1. The record evidence establishes that there is an increase in value of the property through the availability of underground facilities. Certainly the developer is going to sell his lot to the purchaser at the increased value, and the purchaser, therefore, finds himself paying for this service when he buys the lot and in addition finds himself assessed with a surcharge on his current bill that may run eternally and everlastingly and will have to be paid by whoever acquires the property and uses the current. This creates a vicious situation.

2. The differential in cost between underground service and overhead service will, of course, vary from one development to another. Mind you now, the order specifies that the surcharge shall recover the actual differential in cost, thus the power company will, of necessity, find itself serving customers in many different developments on the same schedule but using a variety of different surcharges throughout its service area - a deplorable situation.

3. The record indicates the necessity to install underground service throughout a development at one time in deference to installing service as houses are constructed as may well be done in overhead service, so at such time as a developer may request underground service for 100 lots in a development the respondent is, by the order, required to install that service without any charge regardless of how much it may cost. The developer may construct and sell 10 houses and then may well abandon the development. Are the 10 users of service in the development going to be required to pay surcharge sufficient to pay the entire cost of the construction or is this cost to become a drain and burden upon other ratepayers of the company?

4. I think possibly the saddest thing about the order is that it determines and accomplishes nothing. It simply strikes out the present filings and requires another filing. This simply means that the same parties will be back protesting the next filing and the matter will have to be heard all over again.

Better by far that this Commission determine this matter now rather than set the stage for another prolonged hearing.

For the reasons stated, I disagree with the order in this matter and respectfully lend my dissent thereto.

Sam O. Worthington, Commissioner

DOCKET NO, E-7, SUB 96

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Amendment to Duke Power Company service regulations relating to installation of underground transmission, distribution, and service facilities) ORDER FOLLOWING FURTHER HEARING

HEARD IN: The Commission Hearing Room, Old YMCA Building, Raleigh, North Carolina, on Tuesday, November 28, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., Clawson L. Williams, Jr., and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

For the Respondent:

Carl Horn, Jr., and George W. Ferguson
Duke Power Company
P.O. Box 2178, Charlotte, North Carolina

For the Intervenors:

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For: Using and Consuming Public

For the Commission Staff:

Edward B. Hipp
Commission Attorney
P.O. Box 991, Raleigh, North Carolina

ELLER, COMMISSIONER: This matter arises on further hearings pursuant to order issued on November 16, 1967.

Various statements, stipulations, and admissions of counsel for all parties were heard and Duke presented further evidence intended to establish the justness and reasonableness of its revised plan for the installation of electric facilities underground as amended at the hearings, copy of which is attached hereto as Appendix "A."

Duke's revised plan is submitted to become a part of its service regulations. Since it is materially simplified and largely self-explanatory, we incorporate it by reference to Appendix "A" and do not here undertake an explanation thereof.

Parties protestant filed certain objections to Duke's revised plan and all material objections were met by Duke's amendments and evidence at the hearing except insofar as ordering clause No. 4 of the Commission's order of August 31, 1967, requires Duke's charges, if any, to be made in the form of a surcharge. Page 13 of the order contains this conclusion:

> "A contribution in aid of construction is not a fair, reasonable, and just device for compensating the utility for investment in facilities over and above that necessary to render service to the customer making the contribution." (emphasis added)

This conclusion was against Duke's estimating procedure whereby the contribution in aid for a "low use" customer was comprised in part upon the cost of a heavier capacity conductor than required to service the customer, which heavier capacity was actually in the form of plant margin for Duke's later convenience and use. The conclusion was

not against contributions in aid properly computed and applied. The revised, amended plan removes the objectionable use of a contribution in aid.

We now find and conclude as follows:

1. Duke's revised "Underground Installation Plan" as filed on November 14, 1967, and amended during the hearings, is in compliance with the Commission's order of August 31, 1967, in this docket to the extent that it:

(a) provides for uniform charges within customer classifications reasonably subject to uniform charges;

(b) is based upon a study of actual cost differentials, systemwide, which further evidence results in charges materially lower than originally proposed;

(c) is not based on considerations of the end usage of electricity or the revenues to be produced by those requesting underground service and carries a provision against such application of the plan; and

(d) otherwise prescribes complete and accurate standards and provisions assuring customers of the availability of underground installation of electric facilities.

2. Duke's revised plan as amended is not technically in compliance with order clause No. 4 of the order of August 31, 1967, in this docket to the extent that it provides for payment of excess costs for underground electric installation through uniform contributions in aid of construction rather than "in the form of a surcharge." However, Duke's revised and amended contribution in aid plan meets the objections to the use of contributions in aid of construction as contained in the order. Clause No. 4 should, therefore, be amended to permit Duke to recover its extra costs in the form of contributions in aid of construction as prescribed in Duke's revised, amended plan.

3. Duke's revised and amended plan is not in strict compliance with the order of August 31, 1967, in that the order contemplates uniform charges within commercial and industrial installations underground, while the revised amended plan permits individual treatment of projects within these classes. From subsequent evidence and discussions, we are now convinced that commercial and industrial underground installations are so few in number and are made under such diverse service conditions and varying cost differentials when compared to residential installations, that they are not subject to uniform, or average, charges within the classes either through a surcharge or a contribution in aid of construction without unreasonably disturbing the actual cost differentials for the individual projects. We are, therefore, of the opinion that the order should be amended to permit individualized treatment on an actual cost

differential basis for each project within the commercial and industrial classifications.

5. We are further of the opinion that Duke should keep accurate cost data on its underground installations pursuant to its revised and amended plan and should report such data to the Commission periodically and that the Commission staff and the company should carry out continuing studies for the purpose of verifying all said data and reviewing all charges and procedures provided in the revised and amended plan and modifying said procedures and further reducing or eliminating said charges when justified.

6. In all respects other than those herein mentioned and for which we shall amend the order of August 31, 1967, Duke's revised and amended plan is in compliance with said order, is free of unjust discrimination and special preference, is otherwise just and reasonable, and should be approved and made effective.

Accordingly, IT IS ORDERED:

1. That Duke Power Company's revised, amended Underground Installation Plan, which is attached hereto as Appendix "A," be, and the same hereby is, approved for application beginning at 5:00 p.m. on December 15, 1967; said plan to be and become a part of Respondent's service regulations by reference subject to all Commission rules and regulations provided for other tariff rules and regulations of Respondent with reference to observing, posting, maintaining, and notice of proposed changes therein.

2. That the order issued in this docket on August 31, 1967, be, and the same hereby is, amended in the following respects:

(a) Beginning in line 8 of ordering clause No. 4, strike the following: " . . . a surcharge to become a rider to the base rates paid by those receiving service through belowground facilities." and insert in lieu thereof the following: " . . . a non-refundable contribution in aid of construction contributed by those requesting and receiving installation of electric facilities underground in accordance with Duke's approved Underground Installation Plan."

(b) In line 10 of ordering clause No. 4, strike the words " . . . surcharge if sought," and insert in lieu thereof the words "contribution in aid of construction."

(c) In line 12 of ordering clause No. 4, strike the following: "commercial and industrial . . ."

3. Respondent shall separately keep accurate records of its distribution construction costs, maintenance expense, and underground contributions related to installations made pursuant to the plan herein approved and shall, beginning on

July 1, 1968, and at the end of each six months' period thereafter, report the same to the Commission substantially in the manner and form of Duke's Exhibit 1-B, received in evidence in these proceedings, which report shall give the name and location of each project installed pursuant to the plan herein approved. The records upon which said reports are based shall be made available to the Commission staff for inspection, verification, and study upon reasonable request to do so.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

APPENDIX "A"
DUKE POWER COMPANY
UNDERGROUND INSTALLATION PLAN

AVAILABILITY

Normally, the Company's distribution and service facilities are installed above ground on poles, towers, or other fixtures. At the request of an owner (hereinafter deemed to include a builder, developer, contractor or customer), the Company will install, own and maintain underground facilities under the terms and conditions hereinafter set out.

I

RESIDENTIAL SERVICE

UNIFORM CHARGES

At the request of an owner, the Company will install, own and maintain underground distribution facilities for service to single residences, apartments and mobile homes for the uniform charges hereinafter set out.

All charges are contributions in aid of construction which are nonrefundable and payable in cash prior to commencement of installation of underground facilities, or, by credit arrangements satisfactory to the Company, this amount may be paid one-fourth in six months and one-fourth in each six months thereafter until paid in full, provided, however, that if all houses in the proposed development have been built and connected to the underground distribution system in less than two years the entire remaining balance shall become due upon such completion. Credit arrangements will be made only for the payment of the uniform charges set out in (1), below.

(1) Service to New Developments

Residences

Average size lots not exceeding 22,000 sq. ft.	$ 55.00 per lot
Average size lots exceeding 22,000 sq. ft.	$ 0.67 trench foot

Apartments

Multiunit Apartments in one building up to and including six units	$ 55.00 per building
Multiunit Apartment projects consisting of more than six units	$ 55.00 per building
plus	$ 9.00 per unit in excess of six

Mobile Home Park

For each mobile home space	$ 50.00 per space

(2) Service from Existing Distribution Lines

(a) New Residence up to a maximum of 300 ft. where overhead line is located adjacent to lot on which residence is located	$ 40.00 per service
(b) New Mobile Homes up to a maximum of 300 ft. where overhead line is located adjacent to lot on which mobile home is located	$ 40.00 per service

NOTE: In either (a) or (b) where service length exceeds 300 ft. a charge of 67¢ per trench foot for the extension required to serve will be made.

(3) Replacing Existing Overhead with Underground Service

Charge for replacing overhead with underground service	$109.00 per service

NOTE: This covers replacement of only the existing overhead service with underground service from the last pole of an overhead distribution line to the residence.

GENERAL

(A) The terms "underground facilities" or "belowground facilities," as used herein, mean an electrical distribution system having all conductors installed below ground level. The cost of transformers, circuit breakers, and other facilities associated with such a conductor system is included in the uniform charges set out above, but at the Company's option they may be installed above or below ground level.

(B) Bulk feeders or subfeeders - A bulk feeder is a conductor system transporting the total energy requirements of a large area from a substation or other supply point into such area, which may consist of several residential developments and other loads. A subfeeder is a conductor system branching off of the bulk feeder to supply the requirements of a certain portion of the large area. The subfeeder may terminate in a given development, but the bulk feeder may or may not pass through the development to serve adjacent areas. Existing overhead bulk distribution feeders will remain installed overhead unless the owner desires to have them installed underground. Bulk distribution feeders necessary to serve a new underground residential subdivision will be installed overhead unless the owner desires to have them installed underground. In such cases, the owner will make a contribution in aid of construction equal to the estimated difference in cost between underground and overhead facilities.

If it is necessary to extend a bulk distribution feeder through an existing underground residential development, it will be installed underground at Company expense.

(C) Developments must be divided into established and defined lots. For the purpose of determining the uniform charge per lot, the average size of lots will be expressed in square feet.

(D) The uniform charge per lot or per trench foot is based only on those facilities required to serve the residence or the development involved. The uniform charge per lot or per trench foot includes the cost of individual services. Where the trench footage price is applicable, the charge will be based on the number of feet of primary and secondary trench. Services will be installed at no additional charge as residences are completed.

(E) Single Phase - The uniform charge per lot or trench foot is based only on those distribution facilities, including local primary voltage loops, transformers, and associated facilities, required to provide the residences with utilization voltage (single phase, 120/240 volts).

(F) Replacing overhead service with underground service -

(1) There will be added to the uniform charge per service the actual cost brought about in connection with the compliance of special requirements, if any, of municipalities, State and Federal Highway Commissions or Bureaus regarding the breaking of pavement, ditching, backfilling, and other related conditions.

(2) Should existing sidewalks, septic tank systems, fuel tanks, other utility lines, or other obstructions result in additional expenses to the Company, payment for same will be made by the owner.

(3) Each owner must arrange the wiring in the residence to receive service at a meter location, which will allow an unimpeded installation of the underground service facilities.

(4) The Company's agreement to provide underground service is dependent upon the owner's securing all necessary easements, rights, rights of way, privileges, franchises, or permits for the installation of such service. Shrubs, trees, and grass sod requiring protection from the Company's equipment during installation of underground facilities will be the responsibility of the owner who will also reseed the trench cover.

MISCELLANEOUS

(A) Company-Owner Coordination - Prior to the installation of the underground distribution system by the Company, the final grade levels of the building sites will be established by the owner. The building construction program will be coordinated with the installation of underground electrical facilities to permit unimpeded access of Company's equipment to the installation sites; to allow installation of underground facilities at proper depth and before streets, curbs or other obstructions are installed; and to eliminate dig-ins to the underground electrical facilities after installation. Should streets, curbs or other obstructions be installed prior to installation of underground facilities, resulting in additional expense to the Company, payment for these additional expenses will be made to the Company by the owner. Should established lots or final grade change after installation of underground electrical facilities have begun, or if installation of electrical facilities are required by customer before final grades are established, and either of these conditions results in additional expenses to the Company, payment for these additional expenses will be made to the Company by the owner.

(B) Temporary Service - Temporary service will not be available in the area served from underground facilities until the underground system is in place unless the owner elects to pay the "in and out" costs of temporary facilities necessary to deliver the temporary service from overhead

distribution lines. After the underground facilities are in place, temporary service may be provided but only at a transformer or pedestal location.

(C) Street and Area Lights - Underground conductors to provide service to street lights will be installed at no cost concurrently with the installation of an underground system for a new residential development. If the owner subsequently desires that street lighting be furnished, the Company will provide same under the applicable rate schedule on file with and approved by the Commission.

With respect to facilities to provide underground service for street lights and area lights under all other conditions, the owner will be required to make a contribution in aid of construction equal to the difference in cost, if any, between underground and overhead facilities. Street and area lighting service will be furnished under the applicable rate schedule.

(D) Adverse Conditions - If the composition of the land where facilities are to be installed is such that standard construction equipment cannot be used to complete the installation, and special equipment and materials needed for stream crossing structures, concrete structures, and dynamite are required, and this composition of land is encountered in over 40 percent of the trench footage, and if abrupt changes in final grade levels exceed a 3-foot drop in depth within 3 feet of horizontal trenching, the Company will adjust the standard charges to collect the actual additional cost to the Company.

II

GENERAL SERVICE AND INDUSTRIAL SERVICE

At the request of an owner, the Company will install, own and maintain underground facilities for general service (commercial and miscellaneous) and industrial customers under the terms and conditions hereinafter set out:

(1) The Company shall place facilities belowground by agreement with persons requesting same provided such persons render a nonrefundable cash contribution in aid of construction prior to commencement of construction equal to the amount by which the estimated cost of the belowground facilities exceeds the estimated cost of the aboveground facilities.

(2) In areas where it is physically or economically infeasible to place facilities above ground due to structural or geographical congestion or load density, the Company may, at its option, place said facilities belowground at its own expense if such is technologically practicable.

III

ALL CLASSES OF SERVICE

The Company will replace an existing overhead distribution system with an underground system in an existing residential development or other area under the following terms and conditions:

(1) The Company shall place facilities belowground by agreement with persons requesting same provided such persons render a nonrefundable cash contribution in aid of construction prior to commencement of construction equal to the amount by which the estimated cost of the belowground facilities exceeds the estimated cost of new aboveground facilities plus the loss due to retirement of existing aboveground facilities. "Loss due to retirement of existing aboveground facilities" is defined as follows: original cost of the aboveground facilities, less accrued depreciation, less salvage, plus cost of removal.

It is necessary to make preliminary engineering studies to determine the approximate costs of replacing overhead with underground facilities. Persons requesting replacement of existing facilities which serve predominately residential areas must pay, in advance of the Company's undertaking such a study, a good faith, nonrefundable deposit of $100 per each 600 feet of front lot line. For the replacement of facilities serving all other areas, estimated cost of the preliminary engineering study necessary must be paid before the study is undertaken.

If the replacement is undertaken following completion of such studies, the actual engineering costs, including preliminary engineering studies, will be charged and credit will be given for the estimated cost which was advanced.

(2) The Company need not replace existing overhead systems with underground facilities except individual services from pole to residence unless at least one block or 600 feet of front line is involved, whichever is less.

(3) All customers served from the section or area of line to be replaced with underground facilities must agree to the conditions outlined for replacement of overhead facilities.

(4) Each owner must arrange the wiring in the residence to receive service at a meter location, which will allow an unimpeded installation of the underground service facilities.

(5) The Company's agreement to provide underground service is dependent upon the securing of all necessary rights, easements, rights of way, privileges, franchises or permits for the installation of such service by those

requesting replacement. Shrubs, trees, and grass sod requiring protection from the Company's equipment during installation of underground facilities will be the responsibility of the individual owner. Reseeding of trench cover will be done by the individual owner.

IV

ESTIMATES

Estimates of the cost of the belowground and aboveground facilities for the purpose of determining the amount of the contribution in aid of construction will be in accord with the Company's current construction design practices and shall be based upon the equivalent conductor and transformer capacity required for the electrical load specified by the owner.

Estimates shall not vary with or take into consideration the end usage of electricity or the revenue to be produced by those requesting underground service. In situations where joint trenching is used for the installation of both power and telephone cables, any cost reductions resulting from such joint use will be passed on, in the form of credits against the estimated cost, to the person(s) making contributions in aid for underground installations. Such downward reductions will also be applicable to the uniform unit prices established in I. (1), (2), and (3) in projects where joint trenching is used.

N.C.U.C. Docket No. E-7, Sub 96
Filed November 15, 1967
Effective December 15, 1967

DOCKET NO. E-7, SUB 96

BIGGS, COMMISSIONER, CONCURRING: I became a member of the North Carolina Utilities Commission after the order dated August 31, 1967, was entered in this cause, and I therefore limit my concurrence in the Findings and Conclusions as stated in the majority order to those matters which relate to the proceedings which have taken place since I became a member of the Commission.

M. Alexander Biggs, Jr., Commissioner

DOCKET NO. E-22, SUB 86

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Investigation of Virginia Electric and Power Company service regulations relating to underground service plan for electric distribution and service facilities	))))	ORDER

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on April 12, 1967, at 9:30 a.m.

BEFORE: Chairman Harry T. Westcott and Commissioners Sam O. Worthington, Clarence H. Noah, John W. McDevitt, and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

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For the Commission Staff:

Edward B. Hipp
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North Carolina Utilities Commission
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ELLER, COMMISSIONER: These proceedings arise from notice issued November 1, 1966, by the Commission to all electric utilities and electric membership cooperatives operating in North Carolina requesting each to file in tariff form for approval their rates, charges, rules, and regulations governing the provision of electric services and installations underground. Pursuant to the notice and in apt time, Virginia Electric and Power Company (Vepco) filed its amended Section XXII, entitled "Electric Line Extensions" and a four-page document entitled "Underground Electric Service Plan for Areas not Designated by the Company as Underground Distribution Areas."

The Commission initiated a general investigation into the justness and reasonableness of the revisions in tariff regulations and the practices thereunder without suspending their effectiveness, scheduled public hearings, and directed public notice of the hearings. Hearings came on after notice and were heard with Protestants and Intervenors present and participating as captioned.

Vepco contends generally and introduced evidence intended to show that underground installation of electricity is in the public interest and should be encouraged, that it costs more to provide its facilities underground than overhead, that Vepco cannot be expected to assume this cost, that for the customer receiving the service to bear the cost would discourage underground installations, and that its revisions, and its practices thereunder, are just, reasonable, and otherwise lawful in that they are intended to divide cost differentials, are applied in a nondiscriminatory way, and are otherwise just and reasonable.

While none of the Protestants and Intervenors contend identically, all generally contend that Vepco's revisions, and the practices thereunder, are unlawfully promotional of exclusive use of electric energy in homes and businesses, are unjustly discriminatory, and are founded on improper and indefinite cost estimates and procedures.

Having considered the testimony, exhibits, admissions, stipulations, arguments, and briefs presented on behalf of all participants in light of applicable law, the Commission now makes the following

FINDINGS OF FACT

1. Virginia Electric and Power Company, the Respondent in these proceedings, is a duly created and existing corporation and a duly authorized and acting public utility engaged in the generation, transmission, distribution, and sale of electric energy in North Carolina and is properly before the Commission, which has jurisdiction over the company and the subject matter of the proceedings.

2. The majority of Vepco's transmission and distribution facilities are above ground and the Company's standard installation methods call for aboveground facilities, the notable exceptions being where:

(a) Vepco at its option and without extra charge has placed such facilities below ground because engineering and economics favored this method, illustrations being extremely high density, commercial "midtown" metropolitan areas, long water crossing, airport runway areas, and other areas of high surface congestion and obstacles.

(b) Upon request, facilities are installed belowground with an extra charge (called a contribution in aid of construction) because Vepco considers engineering design and economics favor overhead construction.

3. Dating from about 1959, when Vepco began installing its facilities underground in residential areas experimentally, the demand for installation of utility facilities underground has been growing at an increasing rate. This is attributable in part to the advantages the method offers in greater safety for those in the immediate areas, reduction in outages due to storms and other hazards, aesthetic benefits from preservation of the natural beauty of the areas, and substantial increases in appraised values of lots in the areas affected. The increasing demand is also due to policies of the national, state, and local governments, practically all of which encourage or require the installation of utility facilites belowground in new residential developments. The Federal Housing Administration and the Veterans Administration, which now finance or guarantee the financing on the majority of new residential developments, require that all utilities in the developments be installed belowground except in cases of unusual hardship. Some municipalities have passed ordinances requiring these facilities to be belowground and a number of cities and counties are considering such ordinances.

4. The installation of electric distribution systems belowground in new residential subdivisions generally cost

more than to install the same facilities overhead, but the margin is narrowing rapidly due to developments in manufacturing technology, economies of scale, and constantly improving installation techniques. Illustrations of these cost-reducing influences are: improved, more portable and versatile trenching machinery, sheathing of conductors for protection against water and insulation of external interferences which eliminates metal conduits, joint uses of trenches for both electric and telephone conductors laid at random (i.e., without special attention to separating the two wires) and more compact, individualized transformers tending to eliminate secondary distribution lines. In addition, the installation of electric facilities belowground offers cost savings which, although tangible, are presently immeasurable. Typical of these savings are the generally anticipated lower depreciation rates associated with buried facilities as contrasted with comparatively short-lived wood poles, elimination of extraordinary maintenance such as results from ice, snow, and windstorms and vehicular collisions with facilities, anticipated lower ordinary maintenance costs, and reduced personal injuries claims, since underground facilities "short-out" in the ground when interfered with and do not burn or electrocute those contacting or breaking the conductors.

5. While the evidence indicates that actual costs of installing electric facilities in new residential developments belowground exceeds actual costs of installing comparable facilities overhead, and we have so found, the evidence does not permit a finding of any exactitude on the amount of such excess costs. The present difficulty in measuring savings associated with increased safety and freedom from surface hazards which attend belowground installations is also a deterrent in making exact findings and developing exact cost formulae.

6. In meeting the increasing demands for burial of its facilities in new residential developments, Vepco has followed an unwritten policy. The amended regulations filed by Vepco in this docket are for the purpose of stating the principles and practices with respect to installation of underground facilities which the company has now developed and proposes to continue, subject to approval by the Commission.

7. The governing principle of Vepco's plan for making the installation of its distribution facilities available to the public is that Vepco will install such underground distribution facilities for customers and developers upon payment of the average difference in estimated cost between underground and overhead construction with credits being applied to offset such payments in accordance with a schedule of anticipated revenues calculated from the estimated usages in the units to be served by the facilities. The plan is basically of two parts:

(a) Areas designated by the company as "Underground Distribution Areas," such as a major metropolitan high load density center where the company will make underground line extensions under substantially the same conditions as overhead; i.e., generally without extra charge. No areas in Vepco's North Carolina territory are presently so designated.

(b) Areas not designated by the company as Underground Distribution Areas. The plan calls for an extra charge, or contribution, for installing facilities underground in these areas, subject to credits against each contribution based on anticipated revenues in the units receiving service. The plan further divides these areas into two parts, residential and nonresidential.

8. The residential part of the plan applicable to areas not designated underground distribution areas provides for the following treatment:

(a) Underground service will be provided the requesting party in a development area not already receiving service upon payment to the company of the average difference in cost between underground and overhead installation. The plan does not specify how this difference in cost is to be computed; nor does it specify that the "costs" as applied are to be estimated cost differentials. The plan specifies, however, that a base (before revenue credits) average cost differential of $280 per service lateral will be required in "non-random" new residential developments. It further specifies that no revenue credits will be made initially where random construction (i.e., at intervals, not block by block) is made, but refunds will be made based upon high usage installations actually made. The average cost differential for individual residences served from overhead facilities is set at $200, with revenue credits applicable initially. Under the plan, the maximum revenue credit, or refund, cannot exceed the prescribed cost differential however much revenue the installed unit is anticipated to produce.

(b) The credits to be applicable are prescribed in the plan as follows: First, various anticipated usages are assigned in accordance with the sizes of the units to be constructed, then revenue credits are assigned to the usage blocks as so derived. The two controlling schedules in the plan are:

I. Estimated Annual Kilowatt-Hours

Estimated Annual Kilowatt-Hours Individually Metered Residential Units

Load	Enclosed Living Area of Residence in Square Feet				Apartment
	To 1250	1251-1750	1751-2250	2251-2750	
	KWHR	KWHR	KWHR	KWHR	KWHR
Base Use	2,600	3,100	3,600	4,100	2,000
Range	1,050	1,100	1,150	1,200	850
Water Heater	4,300	4,400	4,500	4,600	3,400
Dish Washer	350	360	370	380	300
Clothes Dryer	900	950	1,000	1,050	700
Direct Electric Heat	9,350	12,250	16,750	20,350	C
Air Conditioning	2,350	2,700	3,100	3,500	C
Heat Pump	10,100	13,150	17,750	21,400	C

NOTE: C - To be calculated

II. Schedule of Credits

Estimated Annual Kilowatt-Hours	Credit for Anticipated Revenue	Payment to the Company Per Service Lateral
Below 6,000	$ -0-	$280
6,000 but less than 8,000	40	240
8,000 but less than 10,000	80	200
10,000 but less than 12,000	120	160
12,000 but less than 14,000	160	120
14,000 but less than 16,000	200	80
16,000 but less than 18,000	240	40
18,000 and above	280	-0-

Those residential customers already served by overhead facilities and requesting replacement with underground facilities under the plan are to pay the cost of removing the existing facilities less salvage, plus the cost of the underground facilities, less a credit for any additional anticipated revenue, subject to the same schedule as new residential areas or individual residences. Residential lots containing more than 26,000 square feet are to be computed separately on a project basis rather than on averages. Anticipated revenue credits up to the $280 maximum are available to these lots on the same schedule as for others.

(c) Under the nonresidential part of the plan, the requesting party is to pay the estimated cost difference between underground and overhead facilities. Credits for anticipated revenue are to be given but on the basis of a ratio of one to one; i.e., the requesting party makes a contribution equal to the estimated cost differential unless his anticipated annual revenue equals or exceeds the estimated cost of the underground facilities. If the anticipated annual revenue is less than the estimated cost differential, the requesting party contributes an amount by which the estimated cost exceeds the anticipated annual revenue.

In the replacement of overhead facilities with underground, the nonresidential party contributes an amount computed similarly to the residential customer, except that his credits against the contribution are more conservatively accumulated; i.e., the nonresidential customer must have substantially more anticipated additional annual revenue in relation to the estimated cost than the residential customer to receive a revenue credit against his required contribution. The effect in both residential and nonresidential replacement situations is that unless the customers' anticipated annual revenue is materially increased following the conversion, he must pay the full contribution.

9. The charges ($280 for service to a residence from an underground secondary line and $200 for service to an

individual residence from an overhead line) are average differentials taken from estimates made on hypothetical installations for residences.

10. Apartment houses are treated generally the same as residences under the plan, although separate laterals are not generally involved for each apartment as they are in residences. No cost estimates were given for apartments.

11. Although the evidence does not permit findings on average actual cost differentials, they are substantially less than those estimated and used by Vepco in its plan due to the inclusion of bulk feeders ($30) in the cost estimates for hypothetical underground installations when none are presently used or ready to be used in the immediate future and the use of estimating factors not verified by actual experience.

12. A practical result of application of Vepco's plan is:

(a) Where the size of the residential lot is 26,000 feet or less, and the enclosed living area of the residence does not exceed 2,750 square feet, and the estimated annual kilowatt-hour consumption is below 6,000, a contribution of $280 per lot invariably results;

(b) Where the square footage and size of the house are the same as in (a) above, but the estimated annual usage exceeds 18,000 KWH, there is no contribution (except in the case of a party with all of the same characteristics, but converting to underground facilities). Between the two foregoing extremes, the amount of the contribution varies, dependent solely upon the electricity consuming appliances installed and the estimated usage of electricity assigned under the plan. Under the plan, and its practical effect, some contribution must be made unless electric space heating is installed.

CONCLUSIONS

We conclude and hold that Vepco's plan as it relates to the provision of electric facilities underground in high load density centers is just and reasonable and should be approved. None of the remaining portions of the plan have been shown to be just and reasonable, specifically:

1. We conclude and hold that the accuracy and fairness of the average cost differentials applied in the plan have not been established in that they are averages based upon estimates of hypothetical installations and not on the company's actual experience nor shown to have reasonable relationship to the company's actual experience.

2. While, in our opinion, the accuracy of the tables of estimated usages associated with the various electric appliances has been established, we conclude and hold the purpose for which the tables are used is unjust,

unreasonable, and unlawful under the statutes in this state for reasons later discussed.

3. We hold and conclude that Vepco's plan as filed in this docket is not materially different in principle or application from the promotional plan filed by it and disapproved by the Commission in Docket No. E-22, Sub 67, (54 PUR 3d 561) (1964), and we disapprove the instant plan for the same reasons given in the docket cited.

4. We hold and conclude that Vepco's plan and practice for the provision of a more costly service (underground installation) without the provision of a charge equal to the cost of rendering the improved service has the effect of shifting this additional cost to other customers through allowances of credits against such excess cost and is unjustly discriminatory against existing customers served through overhead facilities and unreasonably preferential to the high use customers within the residential class.

5. We further conclude and hold that Vepco's plan, and the practices thereunder, fall within the purview of G.S. 62-140(c) and are unlawfully promotional of the exclusive use of electric space heating, there being no evidence of practices by competitors tending to justify such competitive practices, or make them reasonable or lawful under said statute.

6. We conclude and hold, consistent with Vepco's position, that underground distribution of electricity is in the public interest and should be encouraged and that Vepco should not be required to assume this entire cost differential. We do not believe, however, that Vepco's other customers should bear the actual cost differential which presently exists.

7. We are further of the opinion that the placing of the costs for this improved service upon those who receive it will not discourage the installation by them of facilities underground, if at all, as much as will the use of this improved service as a means of inducing or coercing the exclusive use of electric space heating.

8. The heavier usage of electricity, to which Vepco makes concessions in its plan, is already contemplated in the block rates and classifications in Vepco's base rates and may not properly be given additional consideration in the form before us.

9. The contribution in aid of construction is not appropriately and accurately applied, nor is it capable of fair administration, when used to compensate the utility for investment in facilities over and above that necessary to render the service. Yet, that is the effect when a low use customer is required to contribute $280 per lot on the theory that a low use service will be installed when, actually, the company always installs high capacity

facilities. We agree that the company should install high capacity underground, but we do not agree that the low use customer should be charged with this "margin" other than in the rate base.

IT IS, THEREFORE, ORDERED:

1. That the amendments to the regulations of Respondent, Virginia Electric and Power Company, filed in this docket relating to the installation of electric facilities underground in areas designated as an "Underground Distribution Area" be, and the same are hereby, approved.

2. That all amendments to the regulations of Respondent filed in this docket not hereinabove approved be, and they hereby are, disapproved. The effectiveness of the amendments herein disapproved, and all practices thereunto pertaining, shall cease and determine from and after the date this order becomes effective, subject to the completion and execution of any written contracts actually entered prior to the date this order issues.

3. That not more than thirty (30) days from the date this order becomes effective, the Respondent, Virginia Electric and Power Company, shall file with this Commission in tariff form a new statement consistent with the conclusions in this order assuring belowground installation of electric facilities to those requesting it for residential and commercial and industrial locations, including street lighting and individual residences, and providing for the replacement of existing aboveground distribution facilities with belowground facilities under such disclosed, reasonable, and nondiscriminatory conditions as the Commission may approve.

4. That, in the event Virginia Electric and Power Company proposes to attach conditions to the availability of any of the foregoing services belowground, the same shall be completely, accurately, and uniformly set out in said statement.

5. It is further provided that, in the event Respondent, Virginia Electric and Power Company, proposes to collect from customers or others any amounts representing any differences in cost for the installation of electric facilities belowground, the same shall be in the form of a surcharge to become a rider to the rates paid by those receiving service through belowground facilities. Said surcharge, if sought, shall be based on actual cost differentials, shall be uniform in application within the respective residential, commercial, and industrial classifications, and distinctions in the surcharge shall not be based upon the capacity of the customer's service entrance facilities, or the revenue produced or to be produced by the customer, or the end use to be made of electricity by the customer, or the amount of use by the customer, or any basis reflected, or properly to be

reflected, in the base rates applicable to such respective general customer classification.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 86

WESTCOTT, CHAIRMAN, CONCURRING IN PART AND DISSENTING IN PART: I first commend the author of the majority opinion for the competent analysis of the evidence of record in this proceeding. I concur generally in the findings of fact and conclusions of law, except the statement on page 11, Conclusion No. 9, "The contribution in aid of construction is not appropriately and accurately applied, nor is it capable of fair administration, when used to compensate the utility for investment in facilities over and above that necessary to render the service"; and decretal paragraph No. 5 on page 12 which suggests a surcharge on rates for the recovery of differences in cost between underground and overhead installations. The evidence of record is clear that underground installations enhance the value of property and that such is recognized by the Federal Housing Administration and the Veterans Administration who now finance or guarantee the financing of many of the new residential developments. Loans have been increased on residences served with underground installations, which in my opinion recognizes the value of property with underground installations.

The value of property in this instance should not be confused or commingled with a rate structure. Such leads only to burdensome and expensive administration and is confusing to the ratepayers assessed with a surcharge. It is my opinion that the difference in construction cost, if any, for underground installations versus overhead installations has to be determined before a reasonable surcharge can be calculated and that such determination should be considered an element of the value of property rather than the assessment of a rate differential between customers receiving the same kind of electricity for essentially the same end use.

H.T. Westcott, Chairman

DOCKET NO. E-2, SUB 139
DOCKET NO. E-7, SUB 96
DOCKET NO. E-22, SUB 86

WORTHINGTON, COMMISSIONER, DISSENTING: I have read with interest the order in this matter and note well that the result reached is entirely different and foreign to what the

five Commissioners in conference formally agreed should be done. I assume, therefore, that the order represents the thinking of the author in deference to that of the five as determined in conference.

I am sure counsel for respondent will be able to diagnose and analyze the order. I desire, however, as one of my last official acts with the Commission, to here give some of the reasons why I disagree with the final results reached and why I feel that the order accomplishes nothing more than the possible postponement of the evil day of reckoning and determination of the issues involved.

I understand the order to find and declare as a fact that the installation of underground electric utility facilities for the furnishing of electric service is more costly than the establishment of overhead facilities for the rendering of the same service and that those who are going to receive the underground service should be required to pay that difference in cost. I certainly do not disagree with this finding if that is the meaning of the language in the order.

I gather from the record that the respondent company, through its filings, sought or seeks to recover the differential in cost as between underground service and overhead service and require that the developer or person responsible for the construction pay this difference or put up funds to guarantee the payment of this difference prior to the installation of the service in that it is more economical and more feasible in the installation of underground service to put the entire system in at one time rather than in sections as houses are constructed.

I understand also that filings of the respondent include certain items of cost such as maintenance and contingencies, which are not properly subject to be included in actual costs, and that the filings provide for certain refunds with respect to the use of current. I have no quarrel with the elimination of items and practices of this kind from the filings. I do not think they should have been included. The filings, therefore, stripped of cost items other than actual cost of construction and the practices concerning refunds in connection with the use of current, should have been approved, and the Commission should have established a sound, firm policy for the recovery by the respondent company from the developers, builders or contractors of the actual cost differential between underground installation and comparable overhead installation so that the purchaser of the property who eventually becomes the user of the electric service will pay this differential at the time of acquisition of the property. This would have ended the controversy.

In justification of my position I call attention to the record evidence that F.H.A. and other sources of construction funds, which require underground service before they will participate, recognize the increase in value of

the property through underground installation of utility services and through such recognition increases the amount of its loans on such properties. Thus the purchaser, developer or contractor can acquire additional funds for the payment of this additional cost at the time of financing, and the user of service will pay for such service at the same rates and on the same basis that all other users of current pay under the same schedules. In this way the beneficiary of the improved property pays the cost of the improvement without any change in utility rates and without burdening, or the chance of burdening, other users of service under the same schedule.

For all practical purposes, however, the order holds the filings of the respondent company to be unjust and unreasonable and thereby denies the use of them. It then requires the respondent company, within 30 days from the date the order becomes effective, to file in tariff form a written statement assuring belowground installation of electric facilities to those requesting it for residential and commercial and industrial locations and providing for the replacement of existing aboveground distribution facilities with belowground facilities, subject to such reasonable and nondiscriminatory conditions as contemplated in a further statement. The further statement simply stating that if respondent power company proposes to attach conditions to the provisions of any of the foregoing services belowground, same shall be completely, accurately and uniformly set out in such statement, and if it proposes to collect from customers or others any differences in cost for the installation of electric facilities belowground, the same shall be in the form of a surcharge to become a rider to the base rates paid by those receiving service through belowground facilities, such surcharge, if used, to be based upon actual cost differential.

Thus the order asserts as a fact that underground installations are more costly than overhead facilities and requires the company file tariff assuring the installation of underground service, upon request, even to the replacement of overhead facilities with underground service and leaves it permissive with the company as to whether it will require those demanding the higher cost facilities to pay the difference or simply let the other ratepayers of the company help pay this additional cost. If the company seeks to recover any of the additional cost due to the differential between the cost of underground installation and similar overhead installation, it shall do so only through a surcharge in the way of an extra charge to users of the service.

I strongly disagree with this particular part of the order. Basically I find myself in disagreement on four points.

1. The record evidence establishes that there is an increase in value of the property through the availability

of underground facilities. Certainly the developer is going to sell his lot to the purchaser at the increased value, and the purchaser, therefore, finds himself paying for this service when he buys the lot and in addition finds himself assessed with a surcharge on his current bill that may run eternally and everlastingly and will have to be paid by whoever acquires the property and uses the current. This creates a vicious situation.

2. The differential in cost between underground service and overhead service will, of course, vary from one development to another. Mind you now, the order specifies that the surcharge shall recover the actual differential in cost, thus the power company will, of necessity, find itself serving customers in many different developments on the same schedule but using a variety of different surcharges throughout its service area - a deplorable situation.

3. The record indicates the necessity to install underground service throughout a development at one time in deference to installing service as houses are constructed as may well be done in overhead service, so at such time as a developer may request underground service for 100 lots in a development the respondent is, by the order, required to install that service without any charge regardless of how much it may cost. The developer may construct and sell 10 houses and then may well abandon the development. Are the 10 users of service in the development going to be required to pay surcharge sufficient to pay the entire cost of the construction or is this cost to become a drain and burden upon other ratepayers of the company?

4. I think possibly the saddest thing about the order is that it determines and accomplishes nothing. It simply strikes out the present filings and requires another filing. This simply means that the same parties will be back protesting the next filing and the matter will have to be heard all over again.

Better by far that this Commission determine this matter now rather than set the stage for another prolonged hearing.

For the reasons stated, I disagree with the order in this matter and respectfully lend my dissent thereto.

Sam O. Worthington, Commissioner

DOCKET NO. E-22, SUB 86

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Virginia Electric and Power Company service regulations regulating to underground service plan for electric distribution and service facilities	INTERIM ORDER GRANTING CONDITIONAL STAY PENDING APPEAL

ELLER, COMMISSIONER: On 31 August 1967 the Commission entered its order in this docket disapproving the plan for providing the installation of electric facilities underground filed by Virginia Electric and Power Company (Vepco) on 28 November 1966 and directing Vepco to file a revised plan in compliance with the order.

Thereafter, and in apt time (29 September 1967), Vepco filed its Notice of Appeal and Exceptions and its Motion to Stay the effectiveness of the Commission's order. Oral argument was requested only on the Motion to Stay. Argument was scheduled and held as requested.

At the time of argument, the question arose as to whether Vepco would file a plan in compliance with the order of 31 August 1967, or whether, in light of Vepco's Notice of Appeal and Exceptions, Vepco would offer a plan to be applied pending said appeal. Counsel stated that Vepco was making a current study of costs associated with its installation of electric facilities underground which was nearing completion. Vepco counsel further advised the Commission that while Vepco preferred that the order of 31 August 1967 be unconditionally stayed, Vepco would find it practicable to comply with some form of conditional stay as an interim measure pending appeal, suggesting the following basis for consideration:

1. That Vepco refrain from allowing to customers, builders, or developers any credit for anticipated revenues as provided in its Underground Service Plan, subject to Vepco's reservation of the right to make refunds based on said credits to the extent, if any, that said credits may be approved upon final determination on appeal.

2. That Vepco present to the Commission, not later than 20 November 1967, and if accepted, place in effect, a revised schedule of charges for underground service based on Vepco's current studies of the difference between the cost of underground distribution and the cost of overhead distribution.

The Commission on 20 October 1967, issued an order unconditionally staying and postponing the effective date of its order of 31 August 1967 to and including 5:00 p.m. on 15 December 1967. The record was not certified to the Court

on Vepco's exceptions and appeal at that time due to the stay and to the necessity of completing the entire record for appeal through consideration of Vepco's proposals for conditional stay aforesaid.

On 16 November 1967 Vepco filed a revised plan for the installation of electric facilities underground. This revised plan is attached hereto and marked Appendix "A." Counsel states that the plan is based upon Vepco's most nearly current cost differential studies and, in part, upon the Commission's order of 31 August 1967. The revised plan was submitted solely as a method of installing electric facilities underground in the interim pending determination of Vepco's case on appeal and not as a new underground plan in substitution of its plan which the Commission disapproved by its order of 31 August 1967; nor is it contended that this plan is in full compliance with the Commission's order dated 31 August 1967.

The Commission has now determined on its own motion that the exceptions should be overruled and the entire record certified to the Superior Court pursuant to G.S. 62-90. However, because of the increasing and serious general public need for the installation of electric facilities underground and, particularly, the fact that the installation of electric facilities underground in residential subdivisions is required by the Federal Housing Administration and the Veterans Administration in guaranteeing loans, it is imperative that some method be provided for making underground electric installations available to the public in the interim pending determination of Vepco's appeal.

The Commission may, in a sense, provide an interim plan simply by extending its unconditional stay of its order of 31 August 1967 pending determination of Vepco's appeal. To do so, however, would at the least permit

(a) the continuation of practices which the Commission has found unjustly discriminatory and unlawfully promotional under the standards of specific prohibitive statutes; and

(b) the making of charges which are now admittedly greatly in excess (about 46 percent) of current estimated cost differentials; and

(c) continued objectionable practices some of which Vepco itself offers to eliminate through its offering on an interim basis.

We conclude, therefore, that Vepco's motion for an unconditional stay of the order of 31 August 1967 must be denied.

In so concluding and holding, and in an effort to assure the uninterrupted provision of electric facilities

belowground to Vepco's customers within its franchised territory in North Carolina, we are of the opinion that the order of 31 August 1967 should be conditionally stayed as hereinafter provided as an interim measure pending determination of Vepco's appeal and the Commission's approval of a plan which is just, reasonable, and otherwise lawful.

Accordingly, IT IS ORDERED:

1. That Vepco's motion insofar as it requests an unconditional stay of the effectiveness of the Commission's order of 31 August 1967 in this docket beyond 5:00 p.m. on 15 December 1967 be, and the same hereby is, denied.

2. That the effectiveness of the order issued in this docket on 31 August 1967 be, and the same hereby is, conditionally stayed and postponed from and after 5:00 p.m. on 15 December 1967, until such time as all issues arising in these proceedings on appeal are resolved. This stay and postponement is made expressly subject to the observance by Vepco of all terms and conditions in Appendix "C" attached and made a part hereof.

3. It is further provided, and made a condition of this order and this stay and postponement, that Vepco shall separately keep accurate records of its distribution construction costs, maintenance expense, and contributions related to installations made under the conditions of this order and shall, beginning on 15 April 1968 for the first three months of 1968, and on the 15th of each fourth month thereafter, report the same to the Commission substantially in the manner and form set forth in Appendix "B" hereto attached. The records upon which said reports are based shall be made available to the Commission staff for inspection, verification, and study upon reasonable request to do so.

4. The Chief Clerk of this Commission is hereby directed forthwith to certify the entire record in these proceedings to the Superior Court of Wake County for determination pursuant to G.S. 62-90.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

APPENDIX "A"

Upon request, underground service will be provided in areas not designated as "Underground Distribution Areas" under the following conditions:

A. New Installations

1. The Company shall be paid the difference between the cost of providing underground service and the cost of providing overhead service, as herein defined. Payment shall be made in a single lump sum in advance of construction.

2. The Cost differential for residential developments which will require an underground distribution system is as follows:

(a) For single phase service:

(i) Where average lot size in a residential subdivision is less than 12,500 square feet, $150 per service lateral.

(ii) Where average lot size in a residential subdivision is at least 12,500 square feet but less than 37,500 square feet, the amount determined by multiplying the actual feet of trench required to install electric distribution facilities underground in the development by $1.20, the Company's average trench foot cost differential for underground and overhead facilities for such subdivisions.

(iii) Where average lot size in a residential subdivision is 37,500 square feet or more, and in the case of apartment and townhouse developments on residential schedules, the amount determined by the Company from a comparison of its estimates of the cost to serve the development with underground facilities and with overhead facilities.

(b) For other than single phase service, the amount determined by the Company from a comparison of its estimates of the costs to serve the development with underground facilities and with overhead facilities.

3. The cost differential for individual service laterals to individual residences from an overhead line on or adjacent to the residential lot shall be as follows:

(a) Where the length of underground lateral does not exceed 250 feet and no primary underground

extension is required, $112 for single phase service.

(b) In all other cases, the amount determined by the Company from a comparison of its estimates of the costs to serve the residence with underground facilities and with overhead facilities.

4. The cost differential for nonresidential developments shall be the amount determined by the Company from a comparison of its estimates of the costs to serve the development with underground facilities and with overhead facilities.

B. Conversion of Existing Overhead Facilities

1. When requested by a customer in an area not designated by the Company as an "Underground Distribution Area," the Company will convert an existing overhead service to underground provided that the customer pays to the Company (a) the estimated cost of removing any existing overhead facilities adequate to serve the load less estimated value of salvage, plus (b) the entire estimated cost of providing the required underground facilities.

2. Where a portion of or all of the existing overhead facilities are inadequate to serve the load, the customer will then pay an amount as determined in Subparagraph B.1. above, less a credit equal to the estimated installed cost of adequate overhead facilities that would have been used to replace such existing inadequate facilities.

APPENDIX "B"

	Number of Units Installed	Average Unit Cost
Overhead Residential Construction		
Single Residence (lot size 20,000 sq. ft. or less)	_____	$_____
Single Residence (lot size over 20,000 sq. ft.)	_____	_____
Apartments	_____	_____
Mobile Homes	_____	_____
Underground Residential Construction		
Single Residence - from OH lines	_____	_____
Single Residence - from UG lines (lot size 20,000 sq. ft. or less)	_____	_____
Single Residence - from UG lines (lot size over 20,000 sq. ft.)	_____	_____
Apartments	_____	_____
Mobile Homes	_____	_____

	Estimate OH	Estimate UG	Actual UG	Contributions
Underground Commercial Services (Name of Project)				
Underground Industrial Service (Name of Project)				
Bulk Feeders (Name of Project)				
Replacement of Existing Overhead System (Name of Project)				

	Average Investment	Maintenance Expense	Ratio
Distribution Maintenance Statistics			
Overhead			
Underground			

	Number of Contributions	Total Amount
Underground Contributions in Aid of Construction		
Single Residence from Overhead Lines		
Single Residence from Underground Lines (lot size 20,000 sq. ft. or less)		
Single Residence from Underground Lines (lot size over 20,000 sq.ft.)		
Apartment Buildings		
Mobile Homes		
Replacing Existing Overhead with Underground Lines		

Engineering Statement Re: Cost Trends

List by Name and Location All Residential Units Installed for the Period

APPENDIX "C"

CONDITIONS FOR INSTALLATION OF ELECTRIC FACILITIES BELOW GROUND PENDING APPEAL IN DOCKET E-22, SUB 86

Vepco will upon request, provide underground service as defined in these proceedings in areas not designated as "Underground Distribution Areas" as approved in said proceedings on a contributions in aid of construction basis in accordance with the following schedule:

1. Residential Service

(a) In new developments:

Residences

Where average lot size is 20,000 square feet or less: $100 per lot

Where average lot size is greater than 20,000 square feet: $ .75 per trench foot

Apartments

Multiunit apartments in one building up to and including six units: $100 per building

Multiunit apartment projects consisting of more than six units: $100 per building plus $10.00 per unit in excess of six

Mobile Home Park

For each mobile home space: $50

(b) Service from existing distribution lines:

New residence where the length of the lateral does not exceed 250 feet and no primary underground extension is required: $75

New mobile home locations where length of required underground lateral does not exceed 250 feet and no primary underground extension is required: $40

New Multiunit apartments where length of required underground lateral does not exceed 250 feet and no primary underground extension is required: same as in (a) above.

NOTE: Where length required underground lateral exceeds 250 feet: $ .75 per trench foot in excess of 250 feet.

(c) Conversion of existing overhead facilities:

When requested by a customer in an area not designated by the Company as an "Underground Distribution Area," the Company will convert an existing overhead service to underground provided that the customer pays to the Company (a) the estimated cost of removing any existing overhead facilities adequate to serve the load less estimated value of salvage, plus (b) the entire estimated cost of providing the required underground facilities.

Where a portion of or all of the existing overhead facilities are inadequate to serve the load, the customer will then pay an amount as here provided, less a credit equal to the estimated installed cost of adequate overhead facilities that would have been used to replace such existing inadequate facilities.

The Company need not replace existing overhead systems with underground facilities except individual services from pole to residence unless at least one block or 600 feet of front line is involved, whichever is less. All customers served from the section or area of line to be replaced with underground facilities must agree to the conditions outlined for replacement for overhead facilities.

2. Commercial and Industrial Products

When requested by a commercial or industrial customer in an area not designated by the Company as an "Underground Distribution Area" as approved in these proceedings to provide electric facilities installation underground, the contribution in aid of construction to be charged shall be equal to the amount by which the estimated cost of the belowground facilities exceeds the estimated cost of the aboveground facilities. Such customers may be permitted by written contract with term not exceeding ten (10) years to pay a facilities charge on a monthly basis at a rate not exceeding the rate provided by the Company in other authorized facilities charges made by it.

Estimates shall not vary with or take into consideration the end usage of electricity or the revenue to be produced by those requesting underground service.

3. Additional Conditions Applicable to All Classes of Underground Installations Except Those Designated "Underground Distribution Areas"

(a) In areas where it is physically or economically infeasible to place facilities above ground due to structural or geographical congestion or load density, the Company may, at its option,

place said facilities belowground at its own expense if such is technologically practicable.

(b) The Company's agreement to provide underground service may be made dependent upon the securing of all necessary rights, easements, rights of way, privileges, franchises or permits for the installation of such service by those requesting replacement. Shrubs, trees and grass sod requiring protection from the Company's equipment during installation of underground facilities will be the responsibility of the individual owner. Reseeding of trench cover will be done by the individual owner.

(c) Each owner must arrange his wiring in the premises to receive service at a meter location which will allow an unimpeded installation of the underground service facilities.

(d) All charges are contributions in aid of construction which are nonrefundable and payable in cash prior to commencement of installation of underground facilities. However, by credit arrangements satisfactory to the Company, this amount may be paid one-fourth in six months and one-fourth in each six months thereafter until paid in full, provided, however, that if all houses in the proposed development have been built and connected to the underground distribution system in less than two years the entire remaining balance shall become due upon such completion. This credit arrangement will be made only for the payment of aggregate uniform charges provided for new developments, the aggregate costs of conversion to underground facilities by blocks as prescribed herein, and for commercial and industrial customers.

(e) The Company will not allow customers, builders, or developers any credit or refunds for anticipated revenues as provided in its underground plan as disapproved by the Commission in these proceedings. However, Vepco may mutually contract in writing with any such customer, builder, or developer later to allow such credits or refunds to the extent, if any, that said credits may be approved upon final determination on appeal. A copy of each such contract shall be filed with the Commission when entered.

(f) In situations where joint trenching is used for the installation of both power and telephone cables, any cost reductions resulting from such joint use will be

passed on, in the form of credits against the estimated cost, to the person(s) making contributions in aid for underground installations. Such downward reductions will also be applicable to the uniform unit prices provided herein.

4. Special Situations

Any requests for underground service for which no procedure is herein prescribed shall be filed with the Commission and the amount thereof approved by it before the charge is made or collected.

DOCKET NO. E-22, SUB 86

BIGGS, COMMISSIONER, CONCURRING: I became a member of the North Carolina Utilities Commission after the order dated August 31, 1967, was entered in this cause, and I therefore limit my concurrence in the Findings and Conclusions as stated in the majority order to those matters which relate to the proceedings which have taken place since I became a member of the Commission.

H. Alexander Biggs, Jr., Commissioner

DOCKET NO. E-7, SUB 99

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Union Electric Membership Corporation, Complainant	)	RECOMMENDED
vs.	)	ORDER
Duke Power Company, Defendant	)	

HEARD IN: The Hearing Room of the Commission at its Temporary Offices in the Old YMCA Building, Corner of Edenton and Wilmington Streets, Raleigh, North Carolina, on August 15 and 16, 1967

BEFORE: Commissioners Sam O. Worthington, John W. McDevitt, and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

For the Complainant:

William T. Crisp, and
Hugh A. Wells
Crisp, Twiggs & Wells
Attorneys at Law
900 First Citizens Bank Building
Raleigh, North Carolina

Richard S. Clark
Wilson, Clark & Huffman
Attorneys at Law
108 East Jefferson Street
Monroe, North Carolina

For the Defendant:

William I. Ward, Jr., and
George W. Ferguson, Jr.
Attorneys at Law
422 South Church Street
Charlotte, North Carolina
For: Duke Power Company

ELLER AND McDEVITT, HEARING COMMISSIONERS: This is a complaint action by Union Electric Membership Corporation (Union) against Duke Power Company (Duke) pursuant to G.S. 62-73 and Commission Rule R1-9.

The three (3) commissioners listed in the caption heard these proceedings. Only two of these three were members when the case was at issue for decision. By unanimous executive action, it was decided that the two commissioners hearing the proceeding would issue a Recommended Order pursuant to G.S. 62-76(b). Chairman Westcott and Commissioners Biggs and Williams did not otherwise participate in the proceedings or in this Recommended Order.

Union contends, inter alia, that on or about the first week of April, 1967, Duke extended electric distribution facilities south from a point north of Richardson Creek down and with Griffith Road (S.R. 2139) some 3,700 feet to a residential subdivision owned by William L. Carter (Carter), crossing and paralleling Union's distribution facilities which had been in the area since about 1939; that in doing so, Duke unlawfully duplicated Union's facilities; and that Duke induced Carter through unlawful and discriminatory concessions or rebates to choose Duke's services rather than Union's.

Duke admits it constructed new facilities and crossed and paralleled Union's facilities substantially as alleged by Union, but denies that its construction is in any way unlawful and particularly contends that its construction is not unlawfully duplicative of Union's facilities within legal contemplation of the term. Duke further denies that Carter was offered any inducements other than those in accordance with its filings approved by the Commission.

The competent, material, and substantial evidence of record justifies the following

FINDINGS OF FACT

1. Complainant, Union Electric Membership Corporation, with principal offices in Monroe, North Carolina, is a duly

organized and existing nonprofit electric membership corporation under and pursuant to Chapter 117 of the General Statutes of North Carolina and is engaged in supplying electricity at retail to its members in and near Union County pursuant to said law and to Article 6 of Chapter 62 of the General Statutes.

2. Defendant, Duke Power Company, with headquarters in Charlotte, North Carolina, is a duly organized and existing corporation and public utility engaged in generation, transmission, distribution, and general sale of electricity in large areas of North Carolina and in Union County pursuant to Chapter 62 of the General Statutes of North Carolina.

3. Union is a wholesale customer of Duke, taking some 66.9 million Kwh of its total requirement of 79.6 million Kwh in 1966 at a total cost of $476,107. This power is furnished Union at the rate provided in Duke's standard tariff schedules 11 and 11A on file with and approved by the Commission.

4. Complainant and Defendant also have a contract between them, the form of which has been approved by the Commission. In pertinent part, this contract provides:

> ". . . nor shall either party, unless ordered so to do by a properly constituted authority, duplicate the other's facilities."

5. On March 12, 1965, counsel for all of the electric membership corporations in the State and for all the electric utilities entered an agreement that their territorial relationships would be governed by G.S. 62-110.2 rather than the noncompetitive provisions in wholesale power contracts as referred to in Finding No. 4. This agreement was not submitted to or approved by the Commission.

6. Both Complainant and Defendant are electric suppliers as defined in G.S. 62-110.2(a)(3). No service areas have been assigned in Union County as between Complainant and Defendant pursuant to G.S. 62-110.2. The parties are not in agreement between themselves as to their respective service areas in Union County, although they are in agreement on where their lines are located in the county as shown on a map dated July 28, 1966, and on file with the North Carolina Utilities Commission.

7. In 1966, Carter acquired a tract of land fronting the west side of Griffith Road (S.R. 2139) in Union County about two (2) miles south of the corporate limits of Monroe and about 2,000 feet south of Richardson Creek. Since 1939 and until the contruction complained of, Union's facilities have been located on and along Griffith Road south of Richardson Creek and Duke's facilities were on and along the same road north of Richardson Creek. At the time Carter purchased the aforesaid tract and continuing to the present, Union's

distribution line ran in a north-south direction along the eastern edge of Griffith Road opposite the road frontage of the tract. Union also had a line generally parallel to the tract's southern boundary line for a distance of about 250 feet averaging approximately 150 feet from said boundary line. There was no service on the tract itself when purchased. Union served a house on the property adjoining the tract on the south and a house on property adjoining the tract on the north at the time of purchase. Duke's nearest facilities to the tract at purchase and until April, 1967, were some 3,400 feet north on the west side of Griffith Road.

8. Carter purchased the aforesaid tract for residential development purposes and beginning in December, 1966, began to clear and develop it, laying out and constructing an entry road in the approximate center of the tract and running generally east-west off of Griffith Road. The tract was subdivided into some thirty (30) residential building lots. Carter had developed land and constructed homes thereon for sale in other areas which have been served by Duke. Before he began to develop the instant tract, Carter negotiated with Duke, and was also contacted by Union, on the provision of electric service to the area he was developing. Duke prepared four (4) estimates, each of which included the cost to it of extending its facilities some 3,400 feet south on Griffith Road from Duke's existing facilities north of Richardson Creek, viz:

For high capacity overhead	$17,481
For low capacity overhead	$15,842
For high capacity underground	$31,159
For high capacity overhead perimeter (underground from pole to house)	$24,159

After considering its cost estimates and relating them to the revenue to be derived, Duke agreed to serve Carter's thirty (30) lots without contribution in aid of construction. All except one of the houses to be constructed in the subdivision are to be "all electric". (I.E., having electricity as the sole energy source).

9. Duke further gave Carter to understand that, as in other subdivisions developed by him and served by Duke, he would receive the following:

(a) Duke would furnish engineering assistance, advice, and inspections relating to design and construction of the homes for minimum heat loss and locations of electric facilities in the subdivision generally and in the homes;

(b) Duke would install street lights along the median of the road into the subdivision at no cost to Carter other than $1.60 per month per light for which he would sign a long-term written contract;

(c) Duke would furnish a house power panel (on which are circuit breakers) or their money equivalent for each all electric home constructed;

(d) Duke would purchase from Carter each high capacity riser he installed in all electric homes at a price of $80 per riser;

(e) Duke would reimburse Carter for portions of newspaper advertising placed by him promoting both the all electric homes to be constructed in the subdivision and the subdivision itself.

10. All of the inducements found to by offered Carter by Duke in Finding No. 9 are general offerings by Duke to developers agreeing to construct "all electric" homes. All are either promotional practices or rates ancillary to Duke's basic service. All are established pursuant to G.S. 62-130(a) and as such are not subject to collateral attack in these proceedings.

11. Although Union contacted Carter and offered to serve his subdivision, Union did not prepare estimates for serving the entire subdivision and it did not offer Carter, and does not generally offer, and has not established, practices or rates such as found to have been offered Carter by Duke in Finding No. 9.

12. Carter elected to have Duke provide service to his subdivision and still prefers Duke's service. His preference for Duke is based primarily upon the consideration and inducements offered him by Duke. He considers both services adequate and dependable and makes no choice between the basic services of the two suppliers. Carter values the inducements offered him by Duke at $200 for each lot on which he constructs an "all electric" home.

13. On or about the first week in April, 1967, Carter made request on Duke to proceed immediately to construct facilities to his subdivision and to serve a house which he had begun on the entry road some 600 feet west of Griffith Road and 352 feet from Union's line parallel to the subdivision's south property line. In response to Carter's request, Duke, on or about April 7, 1967, constructed its line from its existing facilities on Griffith Road north of Richardson Creek down and with Griffith Road south about 3,000 feet to the south property line of the subdivision, thence westerly 507 feet along the south edge of the subdivision to a dead end, thence northeast 300 feet to the aforesaid house under construction. All of Duke's construction on Griffith Road was placed on poles installed by the telephone company for its primary use with pole rental rights to Duke. Duke's line from Griffith Road into the subdivision is on its own poles. Duke's new construction on Griffith Road crosses over the road twice and crosses over Union's lines twice before reaching the subdivision. Duke's is directly parallel to Union's lines

on the opposite side of Griffith Road for about 700 feet as it approaches and reaches the back property line of the subdivision. The line in the subdivision is directly parallel to Union's for about 225 feet at an average distance of approximately 125 feet. Since Duke's construction, Carter has started an additional house in the subdivision on Griffith Road. This house is 157 feet from Union's lines and about 80 feet from Duke's new line. Union provides construction power to this house and the parties' lines also cross each other at this point on Griffith Road.

14. The foregoing construction by Duke was at a cost of $2,335. Had Union served the same house from its nearest facilities, using the size and type wire recommended for serving an all electric home, its extension and conversion expense would have totalled $1,485. Duke constructed a total of 3,700 feet in reaching the house; Union would have been required to construct about 360 feet of new line and to have converted an additional 1,464 feet of wire to provide the grade of service recommended for the same house. It would be profitable for either Duke or Union to provide service in the entire subdivision, particularly to the 29 homes which are to be all electric. It would not be profitable for Duke to construct as it has to serve the single house it did serve or the one in the subdivision now receiving service from Union, or both. It would be profitable for Union to serve both houses in the subdivision, or either of them.

15. Union has a total capitalization of approximately $10 million, of which about $6.4 million is long-term debt provided under the Federal Rural Electrification Act. At the time Union began to provide service in the area of Griffith Road in 1939, no other electric service was available to the area. Union has based its loan applications and obtained its loans on the basis of providing service in the areas adjacent to its existing lines and upon projections of how the area would develop, what its requirements would be, and probably revenues it would produce.

16. Both Union and Duke are capable of providing adequate and dependable power to the Carter Subdivision under conditions of service or service regulations which, when applied to the individual customers who locate in the subdivision, would be nondiscriminatory.

17. Duke offered to withdraw from the area of the Carter subdivision and not to serve it, provided Carter should change his perference and release Duke. Carter did not change his preference.

CONCLUSIONS

In late 1964, at the instance of the Governor of the State, representatives of the electric membership corporations and of the electric utilities met and agreed

upon proposed legislation designed to put an end to the wasteful territorial and service disputes and resulting duplication of facilities which had existed with increasing intensity for many years in North Carolina. This agreed legislation was submitted to, and enacted by, the General Assembly as Chapter 287 of the Session Laws of 1965 (G.S. 62-110.2). In these proceedings, we are confronted with a dispute over the spirit, intent, and application of the Act and the authority of the Commission thereunder.

The primary legislative objective in the 1965 Act is to avoid unnecessary duplication of electric facilities by cooperatives and utilities through declaration of territorial rights for both of them. Certain of these territorial rights are absolute and exist as a matter of law; certain of them are permissive and subject to the public convenience and necessity as determined by the Commission. For example, by virtue of the Act, the respective suppliers have a statutory right to continue to serve any premises to which their facilities were attached on April 20, 1965. Likewise, each supplier has a statutory right to provide initial service to any premises located wholly and exclusively within 300 feet of its facilities in place on April 20, 1965, or wholly and exclusively within 300 feet of lines the supplier subsequently extends into unassigned territory to serve customers it had a right to serve.

Those areas of the State outside municipalities and more than 300 feet from the lines of any supplier as defined in the Act are subject to assignment by the Commission. The Commission is required to make these assignments "in accordance with public convenience and necessity." [G.S. 62-110.2(c)(1)]. The Commission may not assign any area within 300 feet of the lines of one supplier to another supplier, but once a supplier is assigned a territory, it has an exclusive right and duty to serve all within the assigned area.

Prior to Commission assignment of particular areas, the statute grants suppliers permissive rights to serve consumers choosing them, provided the premises to be served are not wholly within 300 feet of any supplier and not partially within 300 feet of two or more suppliers. [G.S. 62-110.2(b)(5)]. This is the situation in the instant case. The developer chose Duke and Duke built into an unassigned area to serve him at premises more than 300 feet from the lines of any supplier. Neither supplier had an absolute statutory right or duty to serve the premises, but either had the permissive right or duty to serve the premises on election of the consumer. In such instances, the Commission may by lawful procedure require either supplier to fill the need; conversely, it may require either supplier not to build its facilities or perform the service.

The Utilities Commission is authorized to consider the public convenience and necessity in determining whether or

not a supplier shall be allowed to serve in unassigned territory to the same extent as in assigning territories between suppliers. That is, whether the issue is one of requiring the supplier to serve or not to serve a particular area, the question should be resolved "in accordance with public convenience and necessity, considering, among other things, the location of existing lines and facilities of electric suppliers and the adequacy and dependability of the service of electric suppliers . . ." [G.S. 62-110.2(c)(1)]. When the foregoing section of G.S. 62-110.2 is read in pari materia with the other sections of the statute and with already existing statutes, there is no reasonable doubt, either of the Commission's authority, or of the test to be applied. (See G.S. 62-2, 62-30, 62-31, 62-32, 62-42, 62-110; State v. Casey, 245 NC 295, Central EMC v. Carolina Power & Light Company, 263 NC 428.

The most important question to be considered in determining whether Duke's construction to serve the Carter subdivision is in accordance with the public convenience and necessity is whether or not electric facilities would thereby be unnecessarily duplicated. Duke's new lines admittedly parallel and cross Union's lines. However, not all paralleling or crossing of the one supplier's facilities by another is unnecessary duplication.

Unnecessary, or prohibited, duplication results when facilities of the one supplier are so constructed and operated, in proximity to the existing comparable and adequate service facilities of the other, that the constructing supplier is undertaking unnecessary investment and costs and is causing the other supplier to sustain unnecessary costs or unnecessary deprivation of revenue which would have contributed to the fully distributed costs of electric service facilities already in existence and capable of adequately meeting the need. Unnecessary duplication involves an inconvenience to the general public through interference with normal land uses through multiple rights of way, excessive aggregate investment in relation to overall efficiency, and an economic loss to the public out of proportion to the need to be filled.

On the facts found in these proceedings, Duke's construction and operation is unnecessarily duplicative of Union's facilities. Union has had facilities on the road in front of the Carter land since 1939. It has served the adjacent premises on both sides of the subdivision for many years. Union's service is adequate and dependable; its financing and investments are in contemplation of serving the area immediate to its lines. Duke's construction will unnecessarily deprive Union of revenue which would go to meet the costs of Union's lines already in existence in the area; by Duke's construction, the land to the immediate north of the Carter subdivision is burdened out of proportion to the need to serve the Carter subdivision. Duke's newly constructed distribution facilities directly parallel Union's distribution facilities for some 700 feet

on the same road and for about 225 feet off the road. Duke's facilities and Union's intersect each other three times in the area as a result of Duke's construction and, if Duke's construction remains, are likely to intersect each other many more times in the future. Some premises in the Carter subdivision are well within 300 feet of Union's facilities, some are well within 300 feet of Duke's new line, and some are more than 300 feet from existing lines of either supplier. This would result in two suppliers being authorized to serve premises in the Carter subdivision. In a contiguous area as small as the Carter subdivision such duplication of service in the same subdivision would be against the public interest and against the best interests of the suppliers as well.

Duke has repeatedly said in these proceedings it would withdraw its facilities and would not serve the Carter subdivision but for the fact that the developer chooses Duke as his supplier under the statute. Before the enactment of G.S. 62-110.2, the Commission followed the policy of not denying a consumer the choice between suppliers "except for some cogent reason." Summerlin v. Carolina Power & Light Company, Docket NO. E-2, Sub 108. The Commission had so declared as between the services of regulated companies and municipals, Rasor v. Carolina Power & Light Company and Town of Clayton, Docket No. E-2, Sub 47; as between regulated companies and cooperatives, Pee Dee E.M.C.v. Duke Power Company and the Town of Marshville, Docket No. E-2, Sub 45; as between regulated companies and mutual companies; Boone, et al. v. Lexington Telephone Company, Docket No. P-34, Sub 34, and Rhodes, et al. v. Lexington Telephone Company, Docket No. P-31, Sub 48.

The North Carolina Supreme Court had used similar language in passing on the public policy involved. (See Blue Ridge Electric Membership Corporation v. Duke Power Company et al., 258 NC 278).

The choice afforded consumers in G.S. 62-110.2 is a statutory statement of previously existing public policy. The choice permitted consumers, while it must be given strong consideration, is not an absolute right to be exercised out of context with the general public interest. The right of election does not go far enough to require the supplier to make, and the Commission to approve, unnecessary duplication of electric facilities simply to satisfy a personal private preference or one not founded on differences in the nature, quality, and quantity of the basic public services available for the need. In short, the consumer is entitled to no more than a reasonable, realistic election between the available basic services. The unnecessary duplication which would result here is a cogent reason controlling the developer's election. As said by the Supreme Court of Appeals of West Virginia:

"The disposition of patrons of public utilities to reach out for duplicate services by others is opposed to the

general principles controlling such public service." United Fuel Gas Company v. Public Service Commission, 138 S.E. 388.

For the reasons given, and based upon the facts found, we hold that Duke's construction and operations to and in the Carter subdivision south of Richardson Creek are wastefully duplicative of Union's facilities and are not in accordance with the public convenience and necessity. Duke should withdraw from the immediate area.

Accordingly, IT IS ORDERED:

1. That Duke Power Company be, and it hereby is, directed to withdraw its service and remove so much of its facilities as it has constructed south of Richardson Creek on Griffith Road (S.R. 2139) in Union County.

2. That, pending permanent assignment of service territories in the area involved, Duke Power Company shall not construct its distribution facilities south of Richardson Creek on Griffith Road for the purpose of serving customers there, nor shall Union Electric Membership Corporation construct its facilities north of Richardson Creek for the purpose of serving customers there, except upon prior written notice to, and prior written approval by, the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-10, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Filing of Revised Residential)
Rate Schedule by Laurel Hill) ORDER PERMITTING FILING ON
Electric Company, Inc.) LESS THAN STATUTORY NOTICE

BY THE COMMISSION: On September 21, 1967, Laurel Hill Electric Company, Laurel Hill, North Carolina, filed with the North Carolina Utilities Commission a new Residential Rate Schedule which schedule reduces the cost of electric energy supplied to its residential customers. It is represented that this new rate will produce an annual saving of approximately $4,000 to this class of customers. It is proposed that this rate become effective as of the next meter reading date which is October 16, 1967.

The Commission is of the opinion, and so finds, that permitting this filing to become effective on less than statutory notice is in the public interest.

IT IS, THEREFORE, ORDERED that the revised Residential Rate Schedule of Laurel Hill Electric Company, Inc., filed in this docket be, and the same is hereby, permitted to become effective on all billing based on meter readings on and after October 16, 1967.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 93

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Virginia Electric and Power Company's filing of Revised Form of Contract for Electric Membership Corporations and related rate schedules	) ORDER APPROVING FORM OF CONTRACT AND RATE SCHEDULES ON LESS THAN STATUTORY NOTICE

BY THE COMMISSION: This matter comes before the Commission upon the filing on March 29, 1967, by Virginia Electric and Power Company (Company) of its revised Form of Contract (Vepco Form 505) for the Purchase of Electricity for Resale by Rural Electric Cooperatives together with attachments A-1, A-2, and B.

Based upon the filing, the Commission finds the following:

1. Vepco Form 505 when properly executed by Company and by any Rural Electric Membership Cooperative will constitute a contract between the parties under which Company will deliver and purchaser will accept the required electric energy for its resale customers at rates specified in either attachment A-1 or A-2. This revised form of contract will supersede Vepco Form 409-A NC and Vepco Form 409-B NC now on file with the Commission.

2. Attachment "Supplement A-1 - Schedule RC-1" sets forth in tariff form the rate under which any Rural Electric Cooperative will purchase electricity from Company and at the same time purchase a part of its requirements from Southeastern Power Administration at the same delivery point.

3. Attachment "Supplement A-2 - Schedule RC-2" sets forth in tariff form the rate under which any Rural Electric

Cooperative will purchase electricity from the Company and not purchase electricity from Southeastern Power Administration at the same delivery point.

4. Attachment "Supplement B - Electric Service Specifications" is a form for providing specific factual data with regard to each delivery point of each customer.

5. The Petitioner requests authority for these changes to become effective on less than statutory notice.

The Commission is of the opinion and so finds that there is good cause for short notice and that this filing should be so treated.

IT IS, THEREFORE, ORDERED That the Form of Contract "Vepco Form 505 - Contract for the Purchase of Electricity for Resale by Rural Electric Cooperatives" be and the same hereby is approved effective on and after April 1, 1967, and "Vepco Form 409-A NC" and "Vepco Form 409-B NC" are canceled and withdrawn.

IT IS FURTHER ORDERED That Schedule RC-1, Schedule RC-2, and Supplement B - Electric Service Specifications - each be allowed to be filed on one (1) day's notice to become effective on and after April 1, 1967.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 96

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Virginia Electric and Power Company, Application for Authority to Enter Into an Agreement Guaranteeing Certain Obligations of Maust Coal and Coke Corp. and its Wholly-Owned Subsidiary, North Branch Coal Co.	)))))	ORDER AUTHORIZING GUARANTY AGREEMENT

BY THE COMMISSION: On September 25, 1967, Virginia Electric and Power Company (Vepco) filed with the Commission an application for authority to enter into a Guaranty Agreement in the form attached to the application, under which Vepco would guarantee the payment of rental payments by Maust Coal and Coke Corporation (Maust) for the rental of additional mining machinery needed by Maust to supply the Vepco coal fire electric generating station at Mount Storm, West Virginia.

The verified representations of Vepco set forth the need for the additional mining machinery and the requirement of the leasing company furnishing the machinery that the lease payments be guaranteed by Vepco. The form of the Guaranty Agreement attached to the application contains subrogation rights and rights of indemnification which protect Vepco in the event it should be called upon to make payments under the Guaranty Agreement.

Based upon the verified representations in the application it appears that the additional mining equipment is needed by Vepco's coal supplier and that the guarantee of the rental payments to finance said equipment is for a useful purpose and is justified by the conditions surrounding the coal supply to the generating station at Mount Storm, West Virginia, and that said Guaranty Agreement should be authorized.

IT IS, THEREFORE, ORDERED that Virginia Electric and Power Company is authorized to enter into the Guaranty Agreement in substantially the form attached to the application whereby Vepco guarantees the rental payments on coal mining machinery to be used by Maust Coal and Coke Corporation and its subsidiaries to furnish coal to Vepco's electric generating station at Mount Storm, West Virginia, with the subrogation and indemnification rights set forth in said proposed Guaranty Agreement.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 45

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of North Carolina Natural Gas Corporation for an Amendment to its Certificate of Public Convenience and Necessity by Adding Additional Counties, Cities, and Towns in Northeastern North Carolina to its Authorized Service Territory) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, September 6, 1967

BEFORE: Chairman Harry T. Westcott and Commissioners Thomas R. Eller, Jr., John W. McDevitt, and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

Donald W. McCoy
McCoy, Weaver, Wiggins & Cleveland
Attorneys at Law
P.O. Box 1688, Fayetteville, North Carolina

For the Interveners:

F. Kent Burns
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For: Public Service Company
of North Carolina, Inc.

J. Allen Adams
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For: Albemarle Natural Gas Corporation

S. David Freeman
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1750 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
For: Albemarle Natural Gas Corporation

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Raleigh, North Carolina

BY THE COMMISSION: This proceeding came before the Commission on an application filed by North Carolina Natural Gas Corporation (hereinafter called N.C. Natural) on June 5, 1967, seeking an amendment to its Certificate of Public Convenience and Necessity to construct, own and operate additions to its natural gas pipeline systems for the transmission, distribution and sale of natural gas in an area in northeastern North Carolina as shown on a map attached to the application, encompassing the Counties of Hertford, Bertie, Martin, Gates, Chowan, Washington, Perquimans and Pasquotank.

The application as amended proposes to supply natural gas service in the following specific cities and towns within the area applied for:

Ahoskie	Williamston	Edenton
Aulander	Murfreesboro	Elizabeth City
Hamilton	Robersonville	Hertford
Plymouth	Windsor	

The Commission caused Notice of Hearing to be published in newspapers having general circulation in the area proposed to be served.

At the call of the hearing, a Motion to Intervene in support of the application was filed by Albemarle Natural Gas Corporation, and without objection the Motion was allowed.

Specifically, N.C. Natural seeks authority through an amendment to its Certificate of Public Convenience and Necessity for the construction and operation of a natural gas pipeline system which will tie into a proposed lateral pipeline of the Transcontinental Gas Pipeline Corporation (hereinafter called Transco) in the vicinity of Ahoskie, N.C., and extend from that point southeastwardly to Plymouth, N.C., with a main branch extending from this line eastwardly to Elizabeth City, N.C.; and a second pipeline extending from the existing system of N.C. Natural at Tarboro, N.C., eastwardly to Williamston, N.C.; with branches from these two separate lines serving the eleven cities listed above. A total of 166 miles of transmission lines is required for this service.

The evidence tends to show that N.C. Natural's plans to serve the area sought are based upon a proposed line to be constructed by Transco in 1968 from its main line at Chatham, Virginia, to Emporia, Virginia, and thence to the area of Pleasant Hills, North Carolina; that N.C. Natural proposes to construct in 1968 an extension from its present pipeline system at Rocky Mount to Roanoke Rapids and to extend this pipeline to tie in with the Transco pipeline at Pleasant Hills, North Carolina; that Transco proposes to extend its pipeline from the Pleasant Hills area to the Ahoskie area in 1968, and at the same time N.C. Natural will construct its transmission lines as proposed herein, along with the initial distribution system in each of the eleven cities and towns as listed above; that N.C. Natural proposes to charge the same rates for service in the territory applied for that exist in the area presently served by N.C. Natural.

N.C. Natural offered in evidence a letter of intent addressed to Transco, dated August 29, 1967, committing N.C. Natural to purchase 98,500 Mcf of gas per day by 1971.

The evidence further tends to show the earnings history and current financial position of N.C. Natural and the outstanding securities of the company; that the total estimated cost of the proposed project, including the Roanoke Rapids extension, is $12,000,000; that the construction budget for the fiscal year beginning October 1,

1967, is tentatively set at $5,400,000, including $2,700,000 to $3,000,000 for the Roanoke Rapids extension; that the funds for the 1968 construction are expected to come from bank loans and internally generated funds; that additional 1968 construction is planned to serve the towns of Snow Hill, Stantonsburg, and Saratoga; that 1968 budget revenues are estimated at $14,200,000, an increase over 1966 revenues of $2,700,000; that N.C. Natural is constructing a compressor station near Marton, N.C., to boost gas pressures in its pipeline system supplying eastern North Carolina; that the proposed project is economically feasible based on market surveys of the area and estimated gas use by the residential, commercial, and industrial customers located in the area and that two large industrial firms are prospective customers contributing substantially to the feasibility and design of the project; and that the reasonably expected growth in customers, sales, and revenues would be as follows:

	1970	1971	1972
Customers	1,978	3,529	4,667
Sales - Mcf	14,542,103	14,706,300	23,567,952
Revenues	$ 5,779,223	$ 6,021,907	$ 9,586,121

The evidence further tends to show that 166 miles of transmission lines ranging in diameter from 16" to 3 1/2" will be required and will cost $4,087,100, and that to provide service to the 4,667 potential customers will require the construction of 767,000 feet of distribution mains at a cost of $2,600,000. Testimony was offered as to the capabilities of the transmission facilities to deliver the necessary volumes of gas as required for service on a projected basis.

Joseph W. Hibben, Investment Banker and Vice President of Kidder, Peabody and Co., Inc., of Chicago, Illinois, testified that the proposed $12,000,000 for this project and the related Roanoke Rapids extension could be financed on the basis of the feasibility studies of R.A. Bansom, Consulting Engineer.

N.C. Natural placed in evidence some thirteen exhibits, including maps of the area to be served, flow diagrams showing the capability of the pipeline system, annual reports of the company, market data studies and revenue estimates from the area applied for.

Interveners stated for the record that their interest was in support of the application.

From the evidence adduced, the Commission makes the following

FINDINGS OF FACT

1. The northeast section of North Carolina lying north and east of Washington, Greenville, Tarboro and Roanoke Rapids, North Carolina, does not now have the advantages afforded by natural gas service. Encompassed in this area are eight counties and eleven cities and towns which will be provided this service if the application herein is granted. The territory is primarily agricultural, but is acquiring new industries which not only have a need for natural gas service themselves but are contributing to the growth and urbanization of the area.

2. Public convenience and necessity exists in the territory for natural gas service. The addition of this service to the present natural resources in this part of the State would be a definite asset in attracting industry, as well as serving a present convenience.

3. Approximately 98,500 Mcf of gas per day will be required to serve the area by 1971. The facilities as proposed herein are designed to fulfill these needs and requirements for natural gas service and will provide for reasonable future growth and development in the area.

4. The revenues estimated by N.C. Natural at existing rates and based on the requirements for natural gas service in the territory are sufficient to permit the financing of the construction of the project on a sound financial basis.

5. N.C. Natural is fit, ready, willing, and able to proceed with the construction of the proposed project for the furnishing of natural gas in the territory involved.

6. N.C. Natural has furnished Transco with a letter of commitment for the volumes necessary to supply the area proposed to be served.

CONCLUSIONS

From the evidence offered and the facts found, the Commission now concludes that N.C. Natural is entitled to and should have issued to it an amendment to its Certificate of Public Convenience and Necessity for the construction and operation of natural gas pipelines from points at Ahoskie and Tarboro southwardly and eastwardly into the area applied for, extending to Plymouth, Elizabeth City and Williamston, respectively, for the purpose of serving and furnishing gas to the area of North Carolina north and east of a line extending from Washington, N.C., northwardly through Greenville, Tarboro and Roanoke Rapids, N.C., to the Virginia State line, in accordance with the map shown as Exhibit 1 in the record in this case.

IT IS, THEREFORE, ORDERED That the Certificate of Public Convenience and Necessity heretofore issued to North Carolina Natural Gas Corporation be, and the same is hereby,

amended to include authority to construct, own and operate a pipeline system for the sale and distribution of natural gas in the area delineated by the red lines on Exhibit A attached to the application and Exhibit 1 in the record, and as more particularly set out in words and phrases in accordance with Exhibit A attached hereto.

IT IS FURTHER ORDERED That North Carolina Natural Gas Corporation shall file reports with the Commission each sixty (60) days following the issuance of this order, showing the progress being made for the provision of the service as herein authorized, including the following:

1. Agreements for service made with industrial customers comprising substantial portions of the volumes of gas to be sold in this area.

2. Copies of franchises granted by the towns in which service is to be provided.

3. A copy of the acceptance by Transcontinental Gas Pipeline Corporation of North Carolina Natural Gas Corporation's commitment to Transco of the volumes of gas required for service to this area.

4. A detailed report showing the facilities to be constructed when approval of financing for this project is submitted to the Commission.

5. A copy of the transmission and distribution construction documents prior to submission to the contractors for bids involving the construction herein.

6. Reports showing progress of Transcontinental Gas Pipeline Corporation in obtaining the authority required from the Federal Power Commission for the construction of its pipeline from Chatham, Virginia, to Emporia, Virginia, and to Ahoskie, North Carolina.

7. Progress reports concerning the financing of the project as herein delineated.

8. All other matters showing the progress being made for establishing the service in the territory as granted.

IT IS FURTHER ORDERED That the rates for service now authorized in the present territory of North Carolina Natural Gas Corporation be, and they are hereby, authorized as the rates for service in the territory proposed to be served herein.

IT IS FURTHER ORDERED That copies of this order shall be furnished to all attorneys and parties of record in this cause.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 45
NORTH CAROLINA NATURAL GAS CORPORATION

EXHIBIT A

The Certificate of Public Convenience and Necessity heretofore granted to the North Carolina Natural Gas Corporation is hereby amended to authorize the construction and operation of additions to its gas pipeline systems for the distribution and sale of natural gas in the Counties of Hertford, Bertie, Martin, Gates, Chowan, Washington, Perquimans and Pasquotank and to serve the Cities and Towns of Ahoskie, Aulander, Hamilton, Plymouth, Williamston, Murfreesboro, Robersonville, Windsor, Edenton, Elizabeth City and Hertford, with the right to extend laterals to all cities, towns and villages and communities in the territory and to serve industries between cities, towns and villages, such construction and operation to be substantially in accordance with the design and schedules as shown on Exhibits 1, 5, 6 and 7 in the record in this case.

DOCKET NO. G-5, SUB 62

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company of North Carolina, Inc., for a Certificate of Public Convenience and Necessity to Provide Natural Gas Service in Vance, Warren and Franklin Counties, North Carolina) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on October 11, 1967

BEFORE: Harry T. Westcott, Chairman, and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

F. Kent Burns
Boyce, Lake & Burns
Attorneys at Law
P.O. Box 1406, Raleigh, North Carolina

For the Commission Staff:

Edward B Hipp
Commission Counsel
Raleigh, North Carolina

No Protestants.

WESTCOTT, CHAIRMAN: The application in this matter was filed with the Commission on September 5, 1967, and after due notice by publication came on for hearing at the captioned time and place.

Upon consideration of the oral and documentary evidence offered at the hearing, the Commission finds:

1. That applicant is a public utility subject to the jurisdiction of the North Carolina Utilities Commission engaged in the business of supplying natural gas service to the public within the territory and service area heretofore allotted to it by this Commission and has been engaged in the business of supplying natural gas since 1951.

2. That Warren County, North Carolina, and Franklin County, North Carolina, are areas in this state which are not presently being supplied with natural gas service.

3. That applicant has caused a marketing survey to be made for each of these counties in order to determine the public need for natural gas service and, as a result of this study, has determined that there is a public need for such service in the area.

4. That by the instant application, applicant proposes to construct, operate and maintain a natural gas transmission and distribution system for service in Franklin and Warren Counties and in the towns of Franklinton, Louisburg, Macon, Middleburg, Norlina, Ridgeway-Manson, Warrenton and Wise.

5. That applicant is advised by Transcontinental Gas Pipe Line Corporation that said corporation will file with the Federal Power Commission an application for permission to construct a pipeline from a point on its main line near Chatham, Virginia, across southern Virginia and thence into northeastern North Carolina, and that applicant proposes to build a 12-inch pipeline from Henderson, North Carolina, where it now renders natural gas service, to a point near Wise, North Carolina, where it proposes to receive gas from Transcontinental Gas Pipe Line Corporation to serve the area sought by this application.

6. That in addition to serving the counties for which the application is herein made, applicant proposes to serve previously unserved areas of Vance County for which it now holds a certificate of convenience and necessity.

7. That the cities and towns involved in the application are growing centers without the benefit and convenience of natural gas, except as proposed in the instant proceeding, and that public convenience and necessity exist for the construction and operation of gas transmission and distribution pipelines and systems as proposed by the applicant.

8. That market data from studies made indicate the projects proposed to be served are reasonably feasible and will not adversely affect rate of return for applicant or constitute a burden on the present ratepayers of the company.

9. That applicant proposes to charge for gas service in Franklin and Warren Counties the same rates as those charged for all other customers of applicant for similar service.

CONCLUSIONS

It appears from the evidence, both oral and documentary, that applicant has requested of Transcontinental Gas Pipe Line Corporation additional amounts of gas to serve the area for which application is made in addition to other amounts of natural gas with which it proposes, by interconnection with its present transmission and distribution systems, to bolster its supply of natural gas for its present customers. It is further made to appear that applicant has tentatively approached the cities and towns which it proposes to serve for franchise agreements to serve said towns and will, upon receipt of a certificate of public convenience and necessity, expeditiously seek firm franchises from said towns.

From the evidence adduced, including the studies made relative to the potential use of natural gas in the area for which application is made, we conclude and hold that public convenience and necessity would be served by granting the authority prayed for by applicant in this proceeding.

IT IS, THEREFORE, ORDERED That Public Service Company of North Carolina, Inc., be, and it is hereby, granted a certificate of public convenience and necessity to provide natural gas service in Warren and Franklin Counties, North Carolina, and as such is authorized to construct and operate gas pipelines for the transmission, distribution and sale of natural gas in the area for which application is herein made.

IT IS FURTHER ORDERED That this Order shall constitute a certificate of public convenience and necessity and shall be in full force and effect from and after the date hereof.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-5, SUB 64

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Public Service Company of North Carolina, Inc., for authority to construct facilities and assignment of territory in Alexander County, North Carolina	))))	ORDER

On November 28, 1967, Public Service Company of North Carolina, Inc. (Public Service), filed an application with the North Carolina Utilities Commission in which it seeks authority to construct transmission and distribution facilities for the sale of natural gas in Alexander County. Public Service further requests that the remainder of the territory in Alexander County not heretofore assigned by this Commission to Carolina Natural Gas Corporation be assigned to Public Service as its service area.

Based on the application treated as an affidavit and the official records of the Commission, the Commission finds the following

FINDINGS OF FACT

1. That Public Service Company of North Carolina is a North Carolina corporation and is authorized by order of this Commission to engage in the sale and distribution of gas in various areas in North Carolina.

2. That Public Service proposes to construct an 8" transmission line from its existing transmission pipeline outside the City of Statesville, located adjacent to State Highway 115 generally along County Road No. 1907 to N.C. State Highway No. 90 and thence in a northwesterly direction along said highway to the Town of Taylorsville. The cost of this transmission facility is estimated to be $553,335.

3. That Public Service proposes to provide natural gas service in the Towns of Hiddenite, Loray, Scotts, Stony Point, and Taylorsville. The estimated cost of the distribution systems in these towns over a 3-year period is $110,250.

4. That these areas are now without any natural gas service and the service proposed to be provided herein would be for the convenience of the public in said area.

5. That the Town of Taylorsville on December 5, 1967, granted to Public Service a franchise for the construction, operation and maintaining of a gas utility system within said town for a period of 30 years.

6. That Public Service Company is financially able to extend its facilities into this area as outlined herein.

7. That Public Service requests that it be assigned as its service area all of Alexander County not heretofore assigned by this Commission to Carolina Natural Gas Corporation in Docket No. G-8, Sub 37.

CONCLUSIONS

1. That the public in the Towns of Hiddenite, Loray, Scotts, Stony Point, and Taylorsville is entitled to the benefits to be derived from natural gas service.

2. That Public Service Company, a public utility, stands ready, and is fit, willing and able to construct the facilities and furnish the gas service proposed herein.

3. That Public Service Company can and is financially able to expand its service in Alexander County as required by public convenience and necessity.

IT IS, THEREFORE, ORDERED That Public Service Company be and is hereby authorized to extend its facilities as outlined herein to supply natural gas to the Towns of Taylorsville, Stony Point, Scotts, Loray, and Hiddenite.

IT IS FURTHER ORDERED That the area in Alexander County not assigned to Carolina Natural Gas Corporation by this Commission in Docket No. G-8, Sub 37 be assigned as the service area of Public Service Company of North Carolina.

IT IS FURTHER ORDERED That this order shall constitute a Certificate of Public Convenience and Necessity to Public Service to provide service in Alexander County as herein authorized.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 68

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Piedmont Natural Gas Company, Inc., for Authority to Issue and Sell $10,000,000 Principal Amount of Its First Mortgage Bonds, 6% Series, Due 1992	ORDER

This cause comes before the Commission upon an application of Piedmont Natural Gas Company, Inc., filed under date of May 22, 1967, through its Counsel, McLendon, Brim, Brooks, Pierce & Daniels, Greensboro, North Carolina, wherein authority of the Commission is sought as follows:

1. To issue and sell $10,000,000 principal amount of its First Mortgage Bonds, 6% Series, due 1992; and

2. To execute and deliver an Eleventh Supplemental Indenture dated as of June 1, 1967, to an original Indenture to secure payment of said bonds.

PETITIONER represents that it is incorporated under the laws of the State of New York, and is duly domesticated under the laws of the State of North Carolina. It is further represented that under the provisions of the laws of New York and the provisions of Petitioner's Certificate of Incorporation, as amended, the directors have full authority to authorize, and did so authorize, by resolutions duly adopted, the issuance and sale of the securities for which approval is sought herein.

PETITIONER further represents that this Commission has previously granted the petitioner Certificate of Convenience and Necessity authorizing it to acquire certain gas franchises and properties in the State of North Carolina, and that the Petitioner now holds franchises and is furnishing natural gas to customers in 24 cities and towns listed on Page 2 of Exhibit B, the Bond Purchase Agreement attached to the application and marked Exhibit I.

PETITIONER further represents that in order to meet the increasing demands for gas and to facilitate and improve its services, the petitioner spent approximately $6,000,000 in extending its facilities during the year 1966 and proposes to spend, in carrying out its program of construction and extensions service, approximately $5,000,000 during the year 1967.

PETITIONER further represents that subject to the approval of this Commission, it now proposes to issue and sell $10,000,000 of its First Mortgage Bonds, 6% Series, due 1992. It is further represented that the Bonds will be issued and secured by an Indenture of Mortgage and Deed of Trust dated as of March 1, 1951, between Petitioner and J.P. Morgan and Company, Inc., as trustee (which has been

succeeded through merger by Morgan Guaranty Trust Company of New York, as trustee) said Indenture being supplemented and modified by ten (10) supplemental indentures as is to be further supplemented and modified by an Eleventh Supplemental Indenture to be dated as of June 1, 1967, which supplemental Indenture will be substantially in the form and content of the proof copy attached to the application in this proceeding and marked "Exhibit A." It is further represented that the proposed bonds will be dated June 1, 1967, and are to mature June 1, 1992, said bonds to bear interest at the rate of 6% per annum, which will be payable semiannually on the first day of June and the first day of December in each year until said principal shall have become due and payable, according to the terms of the Eleventh Supplemental Indenture. It is further represented that the redemption of the Bonds is set forth in the Eleventh Supplemental Indenture and that said terms also make provision for redemption of the Bonds prior to maturity at the option of the petitioner.

PETITIONER further represents that Bonds will be sold to an institutional investor pursuant to the terms of the proposed purchase agreement at 100% of the principal amount thereof, plus an amount equal to accrued interest, if any, on the "Closing Date."

PETITIONER further represents that the expenses estimated to be incurred in connection with the issuance and sale of said Bonds will not exceed $70,000. It is further represented that the proceeds from the Bonds will be used in the expansion program of the company and in the repayment of outstanding short-term bank loans incurred for such purposes in the approximate amount of $6,500,000.

From a review and study of the application, its supporting data and other information on file with the Commission, the Commission is of the opinion and so finds that the issuance and sale of the securities herein proposed under the terms and conditions set forth is:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service;

(d) Reasonably necessary and appropriate for such purposes;

THEREFORE, IT IS ORDERED That Piedmont Natural Gas Company, Inc., be and it is hereby authorized, empowered and permitted, under the terms and conditions set forth in the application and its supporting data:

1. To issue and sell $10,000,000 principal amount of First Mortgage Bonds, 6% Series, due 1992 to an institutional investor pursuant to the terms of the Bond Purchase Agreement at 100% of the principal amount thereof, plus an amount equal to accrued interest, if any, on the "Closing Date;" and

2. To execute and deliver to Morgan Guaranty Trust Company of New York, as Trustee, an Eleventh Supplemental Indenture dated as of June 1, 1967.

IT IS FURTHER ORDERED That the proceeds to be derived from the sale of said Bonds shall be devoted to the purposes set forth in the Application.

IT IS FURTHER ORDERED That the Petitioner supply the Commission a copy of the Eleventh Supplemental Indenture and a copy of the Bond Purchase Agreement as soon as copies of such documents are available in final form.

IT IS FURTHER ORDERED That the Petitioner, within a period of thirty (30) days following the completion of the transaction authorized herein, shall file with the Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-5, SUB 61

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company of North)
Carolina, Incorporated, for Authority to Issue)
and Sell $7,000,000 Principal Amount of Its) ORDER
First Mortgage Bonds, 6% Series F, Due 1992)

This cause comes before the Commission upon an Application of Public Service Company of North Carolina, Incorporated (Petitioner), filed under date of February 23, 1967, through its Counsel, Mullen, Holland and Harrell, Gastonia, North Carolina, wherein authority of the Commission is sought as follows:

1. To issue and sell $7,000,000 principal amount of First Mortgage Bonds, 6% Series F, due 1992, to institutional investors for cash at 100% of the

principal amount thereof, plus accrued interest from March 1, 1967; and

2. To execute and deliver to a certain Trustee a Sixth Supplemental Indenture dated as of March 1, 1967, to an amended original Indenture of Mortgage dated as of January 1, 1952, to secure payment of said Series F Bonds.

PETITIONER is a North Carolina corporation with its principal office located on Cox Road near the City of Gastonia, North Carolina; is engaged, inter alia, in the transmission and distribution of natural gas to the public for compensation in its franchised areas in this State; is a public utility as defined in Article 1 of Chapter 62, General Statues (G.S. 62-1 - G.S. 62-4) of North Carolina and is subject to the jurisdiction of the North Carolina Utilities Commission.

PETITIONER represents that it now proposes, subject to authorization by this Commission, to issue and sell $7,000,000 principal amount of First Mortgage Bonds, 6% Series F, due 1992 (the "Series F Bonds") to eleven institutional investors for cash at 100% of the principal amount thereof, plus accrued interest from March 1, 1967, to date of delivery. It is further represented that the Series F Bonds will be created under Petitioner's Indenture of Mortgage to The Marine Midland Trust Company of New York (now Marine Midland Grace Trust Company of New York), a New York corporation, as Trustee, dated January 1, 1952, as heretofore amended and as to be further amended by a Sixth Supplemental Indenture dated as of March 1, 1967, substantially in the form and content of Exhibit B attached to the Application.

PETITIONER further represents that the Series F Bonds will be issued in substantially the forms set forth in and will contain the terms and provisions set forth in said Sixth Supplemental Indenture; that Coupon Bonds of Series F are to be dated March 1, 1967, and Registered Bonds of Series F are to be dated as provided in said Indenture dated as of January 1, 1952. It is further represented that all Bonds of Series F will mature March 1, 1992, and shall bear interest at the rate of 6% per annum, payable semiannually on March 1 and September 1 until payment of the principal amount thereof and at the rate of 7% per annum on any overdue principal. It is further represented that the Series F Bonds will be subject to the operation of a sinking fund and under certain conditions redeemable at the option of Petitioner and have the other terms, provisions and characteristics specified in said Sixth Supplemental Indenture.

PETITIONER further represents that it proposes to enter into Bond Purchase Agreements with eleven institutional investors providing for the private sale of $7,000,000 in principal amount of Series F Bonds, at a price of 100% of

the principal amount each investor purchases, plus accrued interest from March 1, 1967, to the date of delivery of said Series F Bonds. It is further represented that the Bond Purchase Agreements will be substantially in the form of Exhibit A attached to the Application.

PETITIONER further represents that the expenses expected to be incurred in connection with the issuance and sale of the Series F Bonds will be approximately $70,000. It is further represented that the net proceeds from the sale of the Series F Bonds will be applied to the retirement of Petitioner's short-term bank loans in the approximate amount of $6,050,000 which have heretofore been used for the construction and extension of plant and facilities and other proper purposes and any amount remaining will be devoted to Petitioner's construction requirements.

From a review and study of the Application and its Exhibits and supporting documents, and other information on file with the Commission, and after due investigation by the Commission of the purposes and uses of the proposed issue, and the proceeds thereof, the Commission finds that such issue is:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service;

(d) Reasonably necessary and appropriate for such purposes;

THEREFORE, IT IS ORDERED That Public Service Company of North Carolina, Incorporated, the Petitioner, be and is hereby authorized, under the terms and conditions and in the manner set forth in the Application and its Exhibits and supporting documents:

1. To issue $7,000,000 principal amount of its First Mortgage Bonds, 6% Series F, due 1992, and to sell such Bonds to institutional investors for cash at 100% of the principal amount thereof, plus accrued interest from March 1, 1967, and to make, execute and deliver a Sixth Supplemental Indenture in connection therewith, substantially in the form filed as Exhibit B to the Application, and thereby, and as stated therein, pledge its faith, credit, properties, rights, privileges and franchises to secure payment of said Bonds for the benefit of the holders of said Bonds;

2. To pay the expenses in connection with the issue and sale of said $7,000,000 principal amount of First Mortgage Bonds, 6% Series F, due 1992, which are estimated in the Application, and to amortize such expenses by appropriate annual charges over the life of the Bonds; and

3. To use the net proceeds from the sale of said $7,000,000 principal amount of First Mortgage Bonds, 6% Series F, due 1992, for the purposes set forth in the Application.

IT IS FURTHER ORDERED That promptly after the execution by the Petitioner of the said Sixth Supplemental Indenture to be dated as of March 1, 1967, and the Bond Purchase Agreements with the purchasers of the Bonds, the Applicant shall file a conformed copy of each of such documents as supplemental exhibits in this proceeding.

IT IS FURTHER ORDERED That this proceeding be, and the same is, continued on the docket of the Commission for the purpose of receiving the above-named supplemental exhibits to be filed herein; provided that nothing in this Order shall be construed to deprive the Commission of any of its regulatory authority under the law, notwithstanding any provision in the Indenture dated as of January 1, 1952, by and between Petitioner and The Marine Midland Trust Company of New York (now Marine Midland Grace Trust Company of New York), as Trustee, as supplemented, all as described in subdivision Fifth of the Application, or as further to be supplemented in the Sixth Supplemental Indenture thereto.

IT IS FURTHER ORDERED That Petitioner, within a period of thirty (30) days following the consummation of the sale of said $7,000,000 principal amount of its First Mortgage Bonds, shall file with the Commission, in duplicate, a verified report setting forth the terminal results of said sale as recorded in its general books of accounts.

ISSUED BY ORDER OF THE COMMISSION.
This the 28th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. G-1, SUB 24

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of United Cities Gas Company for)
Authority of Effect a Three-for-Two Split of Its)
Outstanding Common Stock and to Issue and Sell an) ORDER
Additional 48,775 Shares of Common Stock)

This cause comes before the Commission upon an Application of United Cities Gas Company (Petitioner) filed under date of July 11, 1967, through its Counsel, Prince, Youngblood & Massagee, Hendersonville, North Carolina, wherein authority of the Commission is sought as follows:

1. To reclassify its outstanding Common Stock with a par value of $5 per share into an appropriate number of shares with a par value of $3.33-1/3 per share and to issue to the shareholders one additional share of Common Stock of the par value of $3.33-1/3 per share for each two shares presently held, so as to effect a three-for-two stock split; and

2. To issue and sell an additional 48,775 shares of its reclassified Common Stock having a par value of $3.33-1/3 per share at a price of not less than $10 per share.

PETITIONER represents that it is a corporation duly organized and existing under the laws of the States of Illinois and Virginia, with its principal office in the City of Nashville, State of Tennessee, and that it is a public utility engaged in the distribution and sale of natural gas to the public in Hendersonville, North Carolina, and in various municipalities in the States of Georgia, Illinois, South Carolina, Tennessee and Virginia.

PETITIONER represents that it now proposes, subject to approval of the Commission, to reclassify its outstanding Common Stock of the par value of $5 per share into an appropriate number of shares with a par value of $3.33-1/3 per share, and to issue to its shareholders one additonal share of Common Stock of the par value of $3.33-1/3 per share for each two shares presently held, so as to effect a three-for-two split of its Common Stock. It is further represented that as a result of this proposal, Petitioner will not issue more than 113,809 shares of additional Common Stock having a par value of $3.33-1/3 per share; that fractional shares will not be issued and that shareholders entitled to less than a full share will receive cash equivalent to the then current market price in lieu of fractional shares. It is also represented that Petitioner does not propose to issue any new shares in substitution for its presently outstanding 227,619 shares of Common Stock, par value $5 per share, but, instead proposes that by said reclassification of its shares and by reason of appropriate amendment to its Articles of Incorporation, said outstanding shares shall thereafter be deemed to have a par value of $3.33-1/3 per share.

PETITIONER further represents that it believes that the proposed reclassification of its outstanding stock and proposed distribution of additional shares of Common Stock of the par value of $3.33-1/3 to its shareholders will broaden the market for said stock and make any future Common

Stock offerings more attractive to the public and will materially assist it in future equity financing.

PETITIONER further represents that it proposes to issue and sell an additional 48,775 shares of its reclassified Common Stock having a par value of $3.33-1/3 per share through an offering of Rights to the holders of its outstanding Common Stock, whereunder such stockholders would be entitled to purchase one share of new Common Stock for each seven shares of such Common Stock held after the stock split proposed herein. It is further represented that the subscription price for the purchase of said shares will be fixed at a price approximately ten per cent less than the mean between the most recent bid and ask prices on the over-the-counter market, but in no event shall such price be less than $10 per share. It is further represented that at the conclusion of the period for the exercise of such Rights to subscribe to such additional shares, Petitioner proposes to sell all shares not subscribed for to the underwriter at the same price the preceding shares sold for under the terms and conditions described in the application in this proceeding.

PETITIONER further represents that the net proceeds derived from the sale of the 48,775 shares of additional Common Stock will be used to reimburse its treasury for funds expended for the acquisition of property or for the construction, extension or improvement of, or addition to its facilities prior to May 1, 1967.

PETITIONER further represents that the minimum expenses expected to be incurred in connection with the three-for-two stock split and the issuance of 48,775 shares of additional Common Stock are estimated at approximately $42,633.

From a review and study of the Application, its supporting data and other information on file with the Commission, the Commission is of the opinion and so finds that the transaction herein proposed is:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes;

THEREFORE, IT IS ORDERED That United Cities Gas Company be, and it is hereby, authorized, empowered and permitted under the terms and conditions set forth in the Application:

1. To reclassify its outstanding Common Stock with a par value of $5 per share into an appropriate number of shares with a par value of $3.33-1/3 per share, and to issue to the shareholders one additional share of Common Stock of the par value of $3.33-1/3 per share for each two shares presently held so as to effect a three-for-two stock split; and

2. To issue and sell an additional 48,775 shares of its reclassified Common Stock having a par value of $3.33-1/3 per share at a price of not less than $10 per share.

IT IS FURTHER ORDERED That the net proceeds to be derived from the issuance and sale of the 48,775 shares of said Common Stock shall be devoted to the purpose set forth in the Application.

IT IS FURTHER ORDERED That United Cities Gas Company, within a period of thirty (30) days following the completion of the transactions authorized herein, shall file with this Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of July, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-8, SUB 39

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Filing by Carolina Natural Gas Corporation) ORDER APPROVING
of a report entitled "Annual Depreciation) DEPRECIATION
Accrual Study as of December 31, 1966") RATES

The Commission, pursuant to G.S. 62-35(c), established Rule R6-80, "Requirements for Depreciation Study" in which it directed that all natural gas utilities not having filed depreciation rates for approval with this Commission shall make depreciation studies and file a schedule of depreciation rates for approval in 1967. Pursuant to that rule, Carolina Natural Gas Corporation on December 12, 1967, filed with this Commission a report entitled "Carolina Natural Gas Corporation's Annual Depreciation Accrual Study as of December 31, 1966", and requests that the rates determined by this report as shown on Table B, Page 13, Column 10, entitled "Annual Depreciation Requirement (%)" be approved.

After full consideration of the detailed report as filed by Carolina Natural, the Commission is of the opinion that the rates set forth on Table B, Page 13, Column 10, entitled "Annual Depreciation Requirements (%)" should be approved and authorized pursuant to its Rule R6-80.

IT IS, THEREFORE, ORDERED That the depreciation rates set forth on Table B, Page 13, Column 10 entitled "Annual Depreciation Requirement (%)" as contained in the study entitled "Carolina Natural Gas Corporation's Annual Depreciation Accrual Study as of December 31, 1966" as prepared by Drazen Associates, Inc., Consulting Engineers, be and is hereby approved and authorized for use, pursuant to Rule R6-80.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. H-37

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Housing Authority of the City of Asheville, North Carolina, for Amendment to Its Certificate of Public Convenience and Necessity) ORDER AND CERTIFICATE

HEARD IN: The offices of the Commission, Raleigh, North Carolina, on March 17, 1967

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah (Presiding), and John W. McDevitt

APPEARANCES:

For the Applicant:

William J. Cocke
Attorney at Law
Suite 411
Jackson Building
Asheville, North Carolina 28801

No Protestants.

NOAH, COMMISSIONER: By application filed with the Commission on February 7, 1967, Housing Authority of the City of Asheville, North Carolina, seeks an amendment to its Certificate of Public Convenience and Necessity issued on August 13, 1941, as amended on December 13, 1950, in Docket No. 2361, to authorize the construction of an additional 545

dwelling units of low rent public housing in the City of Asheville.

Applicant submitted affidavit of publication from Asheville-Citizen-Times Publishing Company, Asheville, that notice of the filing of the application and hearing thereon in the offices of the Commission on March 17, 1967, was published in the February 21 and 28, 1967, issues of The Asheville Times having general coverage in the area of the proposed construction.

Applicant was represented by counsel and presented witness Carl Vaughn, the Executive Director, who testified respecting the need for additional housing units in the City of Asheville and presented a series of exhibits in support thereof, including: Application for Program Reservation of Low Rent Public Housing and for a Preliminary Loan; Application for a Low Rent Housing Program and Supporting Information; Extracts from the Minutes of a Regular Meeting of the City Council of the City of Asheville held on October 15, 1964; Extracts from the Minutes of the Regular Meeting of the City Council of the City of Asheville held on February 22, 1966; Extracts from the Minutes of the Regular Meeting of the City Council of the City of Asheville held on January 19, 1967; Consolidated Annual Contributions Contract, Amendments Nos. 1 and 2 to Cooperation Agreement dated November 14, 1966, and January 19, 1967, an Aerial Site Photograph showing property it proposes to acquire designated Projects Nos. NC 7-5, NC 7-6, NC 7-7 and NC 7-8 on which will be constructed, respectively, 125, 200, 150, and 150, for a total of 625, dwelling units of low-rent public housing, and Resolution of Housing Authority No. 198.

Applicant seeks, at this time, that its certificate be amended to include construction of only 545 units.

Upon consideration of the evidence, the Commission makes the following

FINDINGS OF FACT

1. Housing Authority of the City of Asheville is a North Carolina cooperation organized under and according to the provisions of Chapter 157 of the General Statutes of North Carolina. The petition is filed in compliance with that chapter and the Act of Congress of the United States Housing Act of 1937, as amended. Applications have been filed with the Housing Assistance Administration for program reservation of low-rent public housing and for preliminary loans in order to construct an additional 545 dwelling units, all of which have been approved by the Housing Assistance Administration. Appropriate authorities of the City of Asheville have authorized the construction of the said 545 dwelling units and have stressed the need for such.

2. In order that Housing Authority of the City of Asheville may establish the dwelling units of low-rent

public housing, it is, or may be, necessary to exercise the power of eminent domain, purchase property for use in connection with the projects, and carry out other purposes incident to its status under the laws of North Carolina and the regulation of the Housing Assistance Administration.

3. Due to the lack of safe and sanitary dwelling accomodations available for low-income families in Asheville at rents which such persons can afford, public convenience and necessity require the construction of 545 dwelling units of low-rent public housing.

4. Housing Authority of the City of Asheville is ready, willing and able, and otherwise fit, and is qualified to fill said need to carry out and fulfill its lawful purposes in connection with the establishment and maintenance of 545 low-rent dwelling units.

5. Housing Authority of the City of Asheville has complied with all rules, requirements, and regulations necessary to acquire the property and construct 545 low-rent dwelling units but cannot consummate the program or proceed therewith without a Certificate of Public Convenience and Necessity from this Commission as provided by statute.

CONCLUSIONS

Consideration having been given the application, the exhibits and the testimony and representations, all of which are of record in this proceeding, and uncontradicted, the Commission concludes, pursuant to Chapter 157 of the General Statutes of North Carolina, Housing Authority of the City of Asheville has met the requirements of law pertaining to the development, construction, establishment and operation of an additional 545 dwelling units of low-rent public housing in the City of Asheville, North Carolina, and is entitled to the issuance of an amended certificate for projects identified as Projects Nos. NC 7-5, NC 7-6, NC 7-7, and NC 7-8.

IT IS, THEREFORE, ORDERED That Housing Authority of the City of Asheville, North Carolina, be, and it hereby is, granted an amended Certificate of Public Convenience and Necessity for the development, construction, maintenance, and operation of 545 dwelling units of low-rent public housing as specifically set out in its application and that this order shall constitute an amended Certificate of Public Convenience and Necessity for such purposes.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-207

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Mrs. Rosa Worley Harrelson and C.O. Harrelson) (a partnership) d/b/a Mrs. R.L. Harrelson &) Company, P.O. Box 4059, Fayetteville, North) Carolina - Failure to keep insurance on file)	ORDER CANCELLING CERTIFICATE

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, December 1, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr., Clawson L. Williams, Jr., and Thomas R. Eller, Jr., (Presiding)

APPEARANCES:

For the Respondent:

Neither present, nor represented by counsel

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Raleigh, North Carolina

BY THE COMMISSION: This cause arises from the Order of the Commission dated October 19, 1967, to Mrs. Rosa Worley Harrelson and C.O. Harrelson, d/b/a Mrs. R.L. Harrelson & Company (Respondent), P.O. Box 4059, Fayetteville, North Carolina, to appear before the Commission at 10:00 a.m. on December 1, 1967, and show cause, if any it had, why its operating authority should not be revoked for willful failure to maintain appropriate security for the protection of the public as required by G.S. 62-268.

The evidence reveals that the public liability insurance of Respondent was cancelled by its insurer, effective October 9, 1967; that the cancellation of said insurance was called to the attention of said Respondent by letter dated September 8, 1967, and again by letter dated October 10, 1967, with the notification that failure to maintain such insurance as required by law would result in the Commission's taking steps towards the revocation and cancellation of Respondent's operating authority; that the order to suspend operations and show cause was issued on October 19, 1967, and was served upon Respondent on October 31, 1967, by Inspector L. Kirby Sanderson.

Respondent was not present at the hearing, nor was anyone present in its behalf. The Director of Motor Transportation testified as to what the Commission's files disclosed in regard to insurance, from which it appears that Respondent has had no public liability insurance on file with the

Commission as required by law from October 9, 1967, up to and including the date of the hearing.

Based upon the pertinent records of the Commission, of which it takes judicial notice, the respondent's file and the competent evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That pursuant to the issuance of the Commission's Order in Docket No. B-207 dated November 29, 1965, the respondent (a partnership) is the holder of Certificate No. B-207 in which it is authorized to engage in the transportation of passengers as a motor vehicle common carrier within the area described in said certificate.

2. That the Transportation Department of the Commission is the custodian of insurance records of all motor carriers regulated by the Commission, including Respondent's liability insurance; that said liability insurance was cancelled by Respondent's insurer, effective October 9, 1967; that the Director of Motor Transportation notified Respondent of said cancellation by letters dated September 8, 1967, and October 10, 1967, and advised Respondent that unless it was in compliance with the Commission's insurance requirements on or before October 17, 1967, such would result in the Commission's taking steps towards the revocation and cancellation of its operating authority; that nothing having been done to reinstate its insurance, an order to show cause was issued on October 19, 1967, suspending the operating authority of Respondent and directing Respondent to appear in the office of the Commission and show cause, if any it had, why its authority should not be cancelled by reason of its failure to keep appropriate insurance in force and on file as required by law.

3. That at the hearing on December 1, 1967, Respondent did not appear, nor did anyone appear in its behalf; that the evidence of record tends to show that said insurance has not been reinstated, nor has Respondent made any effort to comply with the Commission's insurance requirements.

CONCLUSIONS

G.S. 62-268 provides that no certificate shall be issued or remain in force until the applicant shall have procured and filed with the Commission such insurance for the protection of the public as the Commission shall require. Rule R2-36 requires all common carriers of passengers to obtain and keep in force at all times public liability and property damage insurance issued by a company authorized to do business in North Carolina. G.S. 62-112 provides for the revocation of a franchise after notice and hearing for failure to provide and keep in force at all times insurance for the protection of the public.

Upon the aforesaid findings and the applicable law, the Commission concludes that Respondent has willfully violated G.S. 62-268 and has, in effect, abandoned its certificate for the transportation of passengers, heretofore authorized, and that said certificate should be cancelled.

IT IS, THEREFORE, ORDERED That Certificate No. B-207, heretofore issued to Mrs. Rosa Worley Harrelson and C.O. Harrelson, d/b/a Mrs. R.L. Harrelson & Company, P.O. Box 4059, Fayetteville, North Carolina, be, and the same is, hereby revoked and cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-291

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Southport Transportation) RECOMMENDED
Company, Southport, North Carolina) ORDER

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on March 22, 1967, at 10:00 a.m.

BEFORE: E.A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

Grover A. Gore
Frink & Gore
Attorneys at Law
P.O. Box 485, Southport, North Carolina

For the Protestants:

R.C. Howison, Jr.
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina
For: Carolina Scenic Stages

R. Hayne Albright
Albright, Parker & Sink
Attorneys at Law
P.O. Box 1206, Raleigh, North Carolina
For: Southern Coach Company

HUGHES, EXAMINER: By application filed with the Commission on January 30, 1967, Southport Transportation Company (a corporation) seeks a certificate to transport passengers, their baggage, mail and light express in the same vehicle with the passengers as a common carrier by motor vehicle over the following highways and between the following points:

From Southport over North Carolina Highway 87 and 211 to the intersection of North Carolina 211 and North Carolina 133, a distance of about three miles; thence south on North Carolina 133 to Caswell Beach, a distance of about 7 miles; thence over an unnumbered road a distance of about three and one-half miles to Long Beach, and return over the same route; and from Southport over an unnumbered road a distance of about three miles to the Southport-Fort Fisher Ferry, and return over the same route.

From Southport, N.C., over N.C. Highways 211 and 87 to its intersection with N.C. Highway 133, a distance of about one and one-half miles; thence north over N.C. Highway 133 to its intersection with U.S. Highways 74-76 and 17, a distance of about 23-1/2 miles; thence north on U.S. Highways 17 and 74-76, to the City of Wilmington, a distance of about seven miles, and return over the same route; and thence an unnumbered road, which is named Access Road, a distance of about one and one-half miles to the Sunny Point Army Terminal, and return over the same route; thence over an unnumbered road a distance of about three and one-half miles to the Old Brunswick Town State Historical Site, and return over the same route.

Notice of the purpose, time and place of the hearing was duly given to all connecting and competing carriers and notice to the puhlic was given in a newspaper of general circulation in the territory proposed to be served. The required affidavit of newspaper publication is in the Commission's files.

Written protests to the application were timely filed by Carolina Scenic Stages and Southern Coach Company; however, during the course of the hearing applicant and protestants agreed to a stipulation which was entered into the record as follows:

MR. HOWISON:

"Counsel for Carolina Scenic Stages and Southern Coach Company, the Protestants, and for Southport Transportation Company, the Applicant, stipulate that Carolina Scenic Stages and Southern Coach Company, will withdraw their protest to the application insofar as it relates to service from Southport along the routes requested to the beaches and to the ferry; and, if a certificate of convenience and necessity, or a certificate is granted, it is stipulated that the charter rights of the applicant will be as follows:

From Southport the applicant will have charter rights to any other points on its franchise, and also to Old Brunswick Town and Orton Plantation, but otherwise, no charter rights from Southport or other points as on the route as to which Carolina Scenic Stages now has a franchise, leased to Southern Coach Company.

That as to any other points on the franchise, if it be granted, the certificate, if it be granted, the applicant will have charter rights to any other points on its franchise, to Orton Plantation and Old Brunswick Town and to Wilmington, but not otherwise.

And as a part of that stipulation, the applicant will withdraw his application insofar as the same relates to any certificate over 133 from its junction with 211 north into Wilmington and from Wilmington south over the same route."

The stipulation was agreed to by all parties.

Pursuant to the said stipulation, the application was amended to eliminate that portion which relates to a request for authority over N.C. Highway 133 from its junction with N.C. Highway 211 north into Wilmington and from Wilmington south over the same route, and further to restrict incidental charter rights in the manner described in the stipulation. Whereupon, protestants, Carolina Scenic Stages and Southern Coach Company, withdrew their protests and were excused from the hearing.

The evidence shows that applicant is a corporation, organized under the laws of the State of North Carolina on December 29, 1966; that the initial Board of Directors are Jack B. Worley, Margaret T. Worley and Homer H. Townsend, all of Southport; that the President and principal stockholder, Jack B. Worley, has been in the taxicab business in the Southport area for several years and that the corporation has a net worth in the amount of some $8,500.

Applicant offered a number of public witnesses including public officials, businessmen and private citizens from Southport, Long Beach and other segments of the routes included in the amended application, all of whom offered testimony which tends to show that there is presently no bus service over any of said routes; that the highways and points which applicant proposes to serve are thickly populated and that there is an immediate and urgent need for the service proposed.

Upon consideration thereof, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That public convenience and necessity require the proposed service, there being no adequate existing transportation service over the routes involved.

2. That the applicant is fit, willing and able to properly perform the proposed service.

3. That the applicant is solvent and financially able to furnish adequate service on a continuing basis.

CONCLUSIONS

The Towns of Long Beach, Yaupon Beach and the area between said towns and Southport are presently without any form of public passenger transportation. This entire area has within recent years undergone a rather phenomenal growth. The evidence reveals that Long Beach, for instance, now has 550 permanent residents and a summer population estimated at 8,000. The North Carolina Baptist Assembly grounds located at Fort Caswell, which will also be served by applicant, is estimated to have a total summer population of some 10,000. There are a number of motels and restaurants located within the area which applicant seeks to serve and most of the employees of these establishments, including maids and servants of the permanent and summer residents, live in Southport. Presently, these employers are required to furnish private transportation for their servants and employees between Southport and their places of employment. The granting of the amended application will not only relieve this situation but will make possible an adequate bus service to and from the described beaches which are now completely isolated with respect to any form of intercity passenger transportation service. Through connections with another carrier at Southport, applicant will be in a position to render a service to and from the area in question which is vitally and urgently needed, and the granting of the application should also be of direct benefit to the connecting carrier in that such should generate new business over its lines to and from the involved area. The proposed operation to and from the Southport-Fort Fisher Ferry landing will also be over a route and to and from a point not presently provided with passenger service.

The Hearing Examiner is of the opinion and concludes that applicant has satisfied the burden of proof required for the granting of the authority sought in the amended application and that the application, as amended and restricted pursuant to the stipulation of record, should be granted.

IT IS, THEREFORE, ORDERED That the amended application of Southport Transportation Company (a corporation), Southport, North Carolina, be, and the same is, hereby granted and that applicant be issued a certificate including the authority particularly described in Exhibit A, hereto attached and made a part hereof.

IT IS FURTHER ORDERED that Southport Transportation Company file with the Commission a tariff of rates and charges, evidence of the required insurance, lists of equipment, designation of process agent, and otherwise comply with the rules and regulations of the Commission and institute operations under the authority herein acquired within sixty (60) days from the date that this order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. B-291 Southport Transportation Company Southport, North Carolina

EXHIBIT A

The transportation of passengers, their baggage, mail and light express in the same vehicle with passengers, over the following highways and between the following points:

From Southport over North Carolina Highway 87 and 211 to the intersection of North Carolina 211 and North Carolina 133, a distance of about three miles; thence south on North Carolina 133 to Caswell Beach, a distance of about 7 miles; thence over an unnumbered road a distance of about three and one-half miles to Long Beach, and return over the same route; and from Southport over an unnumbered road a distance of about three miles to the Southport-Fort Fisher Ferry, and return over the same route.

RESTRICTIONS:

Charter operations limited to originations from Southport to other points on carrier's franchise, to Old Brunswick Town and to Orton Plantation; from other points on carrier's franchise to any other points on its franchise, to Orton Plantation, Old Brunswick Town and to Wilmington.

DOCKET NO. B-87, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Statesville Motor Coach Co., Inc., 109 Winston Avenue, Statesville, North Carolina) RECOMMENDED ORDER

HEARD IN: The Grand Jury Room, Iredell County Courthouse, Statesville, North Carolina, August 3, 1967, at 9:30 a.m.

BEFORE: E.A. Hughes, Jr., Examiner

APPEARANCES:

For Applicant:

L. Hugh West, Jr.
Attorney at Law
104 1/2 Court Street
P.O. Box 1531, Statesville, North Carolina

No Protestants.

HUGHES, EXAMINER: By application filed with the Commission on June 21, 1967, Statesville Motor Coach Co., Inc. (Applicant), seeks authority under the provisions of the Public Utilities Act to transport passengers, their baggage and light express in the same vehicle with passengers, as a common carrier by motor vehicle over the following route and between the following points:

"From Statesville over U.S. 21 to Ebenezer School, located at Five-Mile Branch, a distance of approximately five miles, and return by Interstate 77 to Newtown Shopping Center, located on East Broad St. Ext."

Notice of the application together with a description of the rights sought along with the time and place of hearing was given by mail to other motor carriers holding certificates to operate into or through the City of Statesville.

No protests were filed and no one appeared at the hearing in opposition to the application.

The evidence in support of the application tends to show that notice of the application was published in the Statesville Record & Landmark once a week for two (2) successive weeks; that Applicant has been in operation in the Statesville area as a motor carrier of passengers under authority from this Commission since 1937 and has operated continuously since that time; that the area which Applicant seeks to serve is thickly populated with several service stations, grocery stores and other businesses located along

the route; that there is presently no public transportation whatever to and from said area, and that many of the residents are without any means of transportation to and from Statesville. It further appears that Applicant proposes to operate two (2) daily round trips over the involved route and that Applicant has the necessary equipment and is qualified, financially and by years of experience, to properly provide adequate bus service under the authority which it seeks to acquire.

Upon consideration of the application, the testimony of record and the evidence adduced, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That public convenience and necessity require the proposed service, and

2. That the applicant is fit, willing and able to properly perform the proposed service, and

3. That the applicant is financially able and otherwise qualified to furnish adequate service on a continuing basis.

CONCLUSIONS

There is no established bus service over the route for which authority is sought. A need for public transportation over said route and between the points named has been established by Applicant and its supporting witness. It is the conclusion of the Hearing Examiner that Applicant has carried the burden of proof sufficient to justify the granting of the authority sought herein.

IT IS, THEREFORE, ORDERED That Statesville Motor Coach Co., Inc., be, and the same is, hereby authorized to engage in the transportation of passengers, their baggage and light express in the same vehicle with passengers, as a common carrier by motor vehicle over the route and between the points particularly described in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Applicant comply with all of the applicable rules and regulations of the Commission and begin operations under the authority herein granted within thirty (30) days from the date that this order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. B-87, SUB 6 — Statesville Motor Coach Co., Inc.
109 Winston Avenue
Statesville, North Carolina

EXHIBIT A — The transportation of passengers, their baggage and light express in the same vehicle with passengers, over the following route and between the following points:

From Statesville over U.S. 21 to Ebenezer School, located at Five-Mile Branch, a distance of approximately five miles, and return by Interstate 77 to Newtown Shopping Center, located on East Broad St. Ext.

DOCKET NO. B-281, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
The application of Travelines of Carolina, Limited, for a certificate of public convenience and necessity to transport passengers, their baggage and light express in vehicles with passengers, as a common carrier over and along certain designated highways and routes in North Carolina	) ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND AUTHORIZING REQUESTED TRANSPORTATION WITH CERTAIN LIMITATIONS

HEARD IN: Hearing Room of the Commission, Raleigh, North Carolina, on January 11, 1967, at 10:00 a.m.

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah and Thomas R. Eller, Jr.

APPEARANCES:

For the Applicant:

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina

For the Protestant:

Thomas W. Steed, Jr.
Allen, Steed and Pullen
Attorneys at Law
P.O. Box 2058, Raleigh, North Carolina
For: Carolina Coach Company

WORTHINGTON, COMMISSIONER: On November 15, 1966, Travelines of Carolina, Limited, a North Carolina

corporation (applicant), applied to the North Carolina Utilities Commission (Commission) for a certificate of public convenience and necessity to transport, by motor vehicle as a common carrier, passengers, their baggage and light express over and along designated highways and between points on such highways designated as follows:

1. From Knotts Island at the end of Highway No. 615 (Knotts Island-Currituck Ferry Landing) via Ferry to Currituck, thence over No. 1242 a distance of about one-half mile to intersection with No. 34, thence over No. 34 a distance of about one-half mile to intersection with No. 1222, thence over No. 1222 to intersection with No. 1231, thence over No. 1231 a distance of about one mile to Panther Landing Recreation Area (end of road), and return to No. 1222, thence over No. 1222 to Moyock, thence from Moyock over No. 1227 to intersection with No. 1218, and return over same routes.

2. From Virginia-North Carolina State Line over No. 1218 to Currituck-Camden County Line, thence over No. 1224 to intersection with No. 343, thence over No. 343 to Camden, thence over No. 158 and No. 168 (combined) to Elizabeth City, thence over No. 168 to Weeksville serving intermediate off-route points at the United States Coast Guard Air Station Base and the Piedmont Airlines Terminal located thereon, and the Westinghouse (subsidiary) Factory as an off-route point at the end of No. 1126, thence from Weeksville over No. 1102 to No. 1104, thence over No. 1104 to No. 1105, thence over No. 1105 to the end of highway at waterfront and River View Subdivision, and return over same route.

3. From Virginia-North Carolina State Line over No. 1251 (East Gibbs Road) to intersection with an unnumbered road (Newbern Drive), thence over the unnumbered road the distance of about one-half mile to the end thereof, and return to No. 1251, thence over No. 1251 to the end thereof at the Canal Public Landing, thence return over No. 1251 to intersection with No. 1250, thence over No. 1250 to North Carolina-Virginia State Line, and from intersection of No. 1250 and No. 1249 over No. 1249 to intersection with No. 1248, thence over No. 1248 to the North Carolina-Virginia State Line, and return over these same routes.

The Commission scheduled hearing on the application and required the applicant to give notice by publication in applicable newspapers of the time and place for such hearing. Such notice was published in The Daily Advance, a Newspaper published in Elizabeth City, North Carolina, and having general coverage in the area involved. Within the time required for the filing of protest Carolina Coach Company (protestant) intervened and protested.

Public hearing was held in the Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on January 11, 1967, at which time both the applicant and protestant were present with witnesses and were represented by counsel. Applicant and protestant offered evidence through the testimony of witnesses and exhibits.

From the evidence offered the Commission makes the following

FINDINGS OF FACT

1. Applicant is a North Carolina corporation duly certificated through the offices of the Secretary of State under North Carolina Law.

2. The President of applicant proposes to actually manage and conduct operations under the authority which may be granted by the Commission. He has had a number of years' experience in the transportation of passengers by motor bus, and the applicant is fit, able and willing to conduct the proposed operation.

3. The routes over which applicant seeks authority to operate are all in North Carolina, and none of them are served by any common carrier of passengers by motor vehicle, with the exception of the route over U.S. Highway 158 at N.C. Highway No. 168 between Camden and Elizabeth City, this particular segment of the highway being presently served by protestant, Carolina Coach Company. One of the routes sought by applicant intersects and crosses protestant's operation at Moyock but does not parallel or overlap protestant's operation.

4. Applicant's proposed operation affords passenger transportation service over and along highways in North Carolina and between points in North Carolina where no public transportation service is offered or is available to the general public.

5. There is a public need and demand for passenger transportation service of the nature proposed by applicant, together with the transportation of passengers' baggage and light express, over the routes and between the points which applicant proposes to serve, with the exception of U.S. Highway 158 and N.C. Highway 168, which duplicate one another, between Camden and Elizabeth City.

6. Applicant has equipment adequate for the rendering of service it proposes and is financially able to acquire additional equipment if same is needed.

CONCLUSIONS

Knotts Island, located in the extreme northeastern section of North Carolina, is separated from the mainland of North Carolina by North Landing River and the Intercoastal

Waterway. Ferry service is available between the Island and Currituck. N.C. Highway 615 crosses the Island and leads on into Virginia. Applicant has authority to transport passengers across Knotts Island and proposes to operate by way of the ferry to Currituck, and thence over Currituck County Road No. 1242 to its intersection with N.C. Highway 34, thence over Highway 34 to Currituck County Road 1222 and over this road to its intersection with Currituck County Road 1231, and thence over Road 1231 to Panther Landing Recreation Area and return to road 1222, thence over Road 1222 to Moyock and from Moyock over Currituck County Road 1227 to its intersection with 1218, and return over the same routes.

Applicant also proposes to operate from the Virginia-North Carolina State Line over Currituck County Road 1218 to Currituck-Camden County Line, thence over Camden County Road 1224 to its intersection with N.C. Highway 343, thence over N.C. Highway 343 to Camden, and thence over U.S. Highway 158 and N.C. Highway 168 (combined) to Elizabeth City, thence over N.C. Highway 168 to Weeksville, serving off-route points of the United States Coast Guard Air Station Base and the Piedmont Airlines Terminal located thereon and the Westinghouse (subsidiary) Factory as an off-route point at the end of Pasquotank County Road 1126, thence from Weeksville over Pasquotank County Road 1102 to Road 1104, thence over County Road 1104 to Road 1105, and thence over Road 1105 to end of Highway at waterfront and River View Subdivision, and return over same route.

Applicant also proposes to serve a small isolated section in North Carolina lying between the Virginia State Line and North West River over routes that lead from the Virginia-North Carolina State Line, being Currituck County Road 1251, known as East Gibbs Road, to intersection with an unnumbered road (Newbern Drive), thence over the unnumbered road about one-half mile to the end and return to Road 1251, thence over Road 1251 to the end thereof at the Canal Public Landing, thence return over Road 1251 to the intersection of Road 1250, thence over 1250 to North Carolina-Virginia State Line and from intersection of 1250 and 1249 over 1249 to intersection of Road 1248, and thence over County Road 1248 to the North Carolina-Virginia State Line, and return over these same routes.

The evidence indicates considerable development and growth in these sections. An amusement park and recreational facilities have been constructed at Panther Landing Recreation Area at the end of County Road 1231. Much construction has developed in the area between North West River and the Virginia State Line and some construction is going on at River View Subdivision at the end of Road 1105. Applicant has some operation in Virginia and has applied to the Interstate Commerce Commission for authority to operate over these routes as between North Carolina and Virginia. Upon receiving authority applicant will be able to transport passengers over routes and between points which presently

have no public transportation service for passengers. The service will enable people to reach points of interest in North Carolina which they can now reach by private transportation only.

The service will duplicate Carolina Coach Company's service between Elizabeth City and Camden. The applicant realized that and requested in its application that the operation as between Elizabeth City and Camden be with closed doors.

It is readily understandable that the routes over which applicant seeks authority to operate are through sections of the northeastern part of the State where it is highly doubtful that enough business is available to provide applicant with a very lucrative operation. It is interesting to note, however, that considerable development is taking place in this section of the State and that no other operator has proposed to venture into the transportation field along the routes proposed by applicant.

We conclude that applicant has shown a need for service over these routes and its ability to render the service it proposes; therefore, it should be granted a certificate of public convenience and necessity authorizing the transportation service requested but with a limitation that operations will be with closed doors between Elizabeth City and Camden, by which we mean that applicant will not be able to originate passengers at Elizabeth City destined to Camden, or points between Elizabeth City and Camden, nor originate passengers at Camden destined for Elizabeth City, or points between Camden and Elizabeth City, and will not be able to pick up passengers between the two points destined for either of the points.

IT IS, THEREFORE, ORDERED that applicant be and it is hereby granted a certificate of public convenience and necessity for the transportation of passengers, their baggage and light express, in accordance with Exhibit A hereto attached, which exhibit carries such limitations and restrictions as are imposed upon such operation.

IT IS FURTHER ORDERED that operations under this authority may begin when applicant has filed tariff schedules of rates and charges, evidence of insurance coverage and otherwise complied with the rules and regulations of the North Carolina Utilities Commission, all of which should be done within 60 days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-281, SUB 2

Travelines of Carolina, Limited
P.O. Box 94
Currituck, North Carolina

Transportation of passengers, their baggage and light express over and along the following described routes:

EXHIBIT A

1. From Knotts Island at the end of N.C. Highway 615 (Knotts Island-Currituck Ferry Landing) via ferry to Currituck, thence over Currituck County Road 1242 a distance of about one-half mile to intersection with N.C. Highway 34, thence over N.C. Highway 34 a distance of about one-half mile to intersection with Currituck County Road 1222, thence over Currituck County Road 1222 to intersection with Currituck County Road 1231, thence over Currituck County Road 1231 a distance of about one mile to Panther Landing Recreation Area (end of road), and return to Currituck County Road 1222, thence over Currituck County Road 1222 to Moyock, thence from Moyock over Currituck County Road 1227 to intersection with Currituck County Road 1218, and return over same routes.

2. From Virginia-North Carolina State Line over Currituck County Road 1218 to Currituck-Camden County Line, thence over Camden County Road 1224 to intersection with N.C. Highway 343, thence over N.C. Highway 343 to Camden, thence over U.S. Highway 158 and N.C. Highway 168 (combined) to Elizabeth City, thence over N.C. Highway 168 to Weeksville, serving intermediate off-route points at the United States Coast Guard Air Station Base and the Piedmont Airlines Terminal located thereon, the Westinghouse (subsidiary) Factory as an off-route point at the end of Pasquotank County Road 1126, thence from Weeksville over Pasquotank, County Road 1102 to Pasquotank County Road 1104, thence over Pasquotank County Road 1104 to Pasquotank County Road 1105, thence over Pasquotank County Road 1105 to the end of highway at waterfront and River View

Subdivision, and return over same route.

3. From Virginia-North Carolina State Line over Currituck County Road 1251 (East Gibbs Road) to intersection with an unnumbered road (Newbern Drive), thence over the unnumbered road the distance of about one-half mile to the end thereof, and return to Currituck County Road 1251, thence over Currituck County Road 1251 to the end thereof at the Canal Public Landing, thence return over Currituck County Road 1251 to intersection with Currituck County Road 1250, thence over Currituck County Road 1250 to North Carolina-Virginia State Line, and from intersection of Currituck County Roads 1250 and 1249 over Currituck County Road 1249 to intersection with Currituck County Road 1248, thence over Currituck County Road 1248 to the North Carolina-Virginia State Line, and return over these same routes.

LIMITATION

This operation is limited to closed doors between Elizabeth City and Camden, and applicant will not be permitted to originate passengers at Elizabeth City destined for Camden, or points between Elizabeth City and Camden, or at Camden destined for Elizabeth City, or points between Camden and Elizabeth City, nor will applicant be permitted to pick up passengers between the two points destined for either of the points.

DOCKET NO. B-281, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
The application of Travelines of Carolina, Limited, for a certificate of public convenience and necessity to transport passengers, their baggage and light express in vehicles with passengers, as a common carrier over and along certain designated highways and routes in North Carolina	)))))))	ORDER SUSTAINING EXCEPTIONS IN PART, OVERRULING EXCEPTIONS IN PART AND ADOPTING THE ORIGINAL ORDER WITH CERTAIN EXCEPTIONS

BY THE COMMISSION: This matter was heard on application and protests. Order was issued on May 2, 1967. Exceptions were filed on June 1, 1967. The Commission scheduled and held oral argument on the exceptions.

The Commission having given consideration to the exceptions and the argument thereon now concludes that Exception No. 1 should be sustained and the original order declared the order of the Commission with the following amendments and limitations.

Virginia Dare Transportation Company, Inc., was allowed to intervene at the hearing and become a protestant to the application. No appearance slip was signed by counsel under these circumstances, and in the original order Virginia Dare Transportation Company, Inc., and its contentions in this matter were inadvertently overlooked.

The testimony on the part of Virginia Dare Transportation Company, Inc., indicates that the authority sought in the application overlaps its authority on Currituck County Road 1242 and N.C. Highway 34 between Currituck and the intersection of N.C. Highway 34 with Currituck County Road 1222, the distance involved being about one mile. Its testimony also indicates that it operates between Point Harbor over U.S. Highway 158 and N.C. Highway 34 to the intersection of N.C. Highway 34 with N.C. Highway 168, and thence over N.C. Highway 168 to Norfolk and returns from Norfolk over N.C. Highway 168 to Elizabeth City and thence from Elizabeth City over U.S. Highway 158 to Point Harbor. It traverses Currituck County Road 1242 and N.C. Highway 34 only on its trip to Norfolk from Point Harbor and does not afford service from Norfolk to Currituck. Applicant's requested authority does intersect Virginia Dare Transportation Company, Inc.'s authority over N.C. Highway 168 at Moyock. Otherwise, there is no connection or duplication of the applied for authority with protestant Virginia Dare Transportation Company, Inc.'s authority.

We conclude therefore that Exception No. 1 should be sustained to the end that applicant's authority be limited to closed door operations from Currituck over Currituck County Road 1242 to N.C. Highway 34 and over N.C. Highway 34 to its intersection with Currituck County Road 1222, a distance of approximately one mile, and applicant will not be permitted to pick up or discharge passengers within this distance. While it may seem to be straining a point to say that a passenger at Currituck desiring to go to a point beyond Moyock on applicant's authority will find it necessary to catch applicant's bus at some point north of the intersection of N.C. Highway 34 with Currituck County Road 1222, we deem it necessary in view of protest to limiting this segment of the authority to closed door operations. With this one exception we conclude that the order of the Commission as issued on May 2, 1967, should be ratified and affirmed to the end that same remains the order of the Commission as herein limited.

IT IS, THEREFORE, ORDERED that protestant's Exception No. 1 is sustained to the end that the order issued by the Commission on May 2, 1967, be and remain the order of the Commission with the one exception, which is to say that the authority granted applicant is limited to closed door operations over Currituck County Road 1242 between Currituck and its intersection with N.C. Highway 34 and over N.C. Highway 34 to its intersection with Currituck County Road 1222, a total distance of approximately one mile, and that the applicant shall not pick up or deliver passengers within the distance here described.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-97, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Virginia Dare Transportation Company, Inc., to extend their present operations from Manteo to Engelhard, via Stumpy Point) ORDER

BY THE COMMISSION: By application filed with the Commission on July 17, 1967, Virginia Dare Transportation Company, Inc., Highway Street, Manteo, North Carolina, seeks appropriate authority under the provisions of the Public Utilities Act to transport passengers, their baggage, mail and light express in the same vehicle with passengers, as a common carrier by motor vehicle over the following routes and between the following points:

"From Manteo over U.S. Highway 64, 264 to Manns Harbor; thence from Manns Harbor over U.S. 264 to an unnumbered road leading to Stumpy Point; thence over the unnumbered road a distance of about two miles to the Village of Stumpy Point; thence return over the same route to U.S. Highway 264; thence over U.S. Highway 264 to Engelhard, and return over the same route."

Notice of the application together with a description of the rights sought was duly given as required by Statute to the only connecting carrier, namely, Engelhard-Washington Bus Company, by letter dated July 18, 1967, with the notification that unless formal protest was entered within ten (10) days from the date of said notification, the Commission would grant the authority sought, based upon the application and the pleadings attached thereto, without formal hearing. There are no competing carriers. No protest to the application has been filed with the

Commission nor has anyone voiced any objection to the granting of same.

Upon consideration thereof, the Commission makes the following

FINDINGS OF FACT

1. That public convenience and necessity require the proposed service in addition to existing authorized transportation service, and

2. That the applicant is fit, willing and able to properly perform the proposed service, and

3. That the applicant is solvent and financially able to furnish adequate service on a continuing basis.

CONCLUSIONS

Applicant presently holds authority to operate as a common carrier for the transportation of passengers in inter- and intrastate commerce between Norfolk, Virginia, and Hatteras Inlet, via Elizabeth City, Manteo, and other intermediate points. The authority sought herein is an extension of Applicant's present authority from Manteo to Engelhard over U.S. Highway 264 with service to the off-route point of Stumpy Point. A grant of the authority applied for will enable Applicant to offer service to a territory heretofore without any form of public passenger transportation whatever and through connections with other carriers at Engelhard and points beyond will provide a new and improved service to and from Manteo and other Outer Banks points.

IT IS, THEREFORE, ORDERED That Certificate No. B-97, heretofore issued to Virginia Dare Transportation Company, Inc., Manteo, North Carolina, be, and it is, hereby amended to include authority to engage in the transportation of passengers by motor vehicle in intrastate commerce as particularly described in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Virginia Dare Transportation Company, Inc., shall comply with all the Commission's rules and regulations and begin exercising the authority herein granted within thirty (30) days of the effective date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-97 — Virginia Dare Transportation Company, Inc.
Highway Street
Manteo, North Carolina

EXHIBIT A — The transportation of passengers, their baggage, mail and light express in the same vehicle with passengers, over the following highways and between the following points:

From Manteo over U.S. Highway 64, 264 to Manns Harbor; thence from Manns Harbor over U.S. 264 to an unnumbered road leading to Stumpy Point; thence over the unnumbered road a distance of about two miles to the Village of Stumpy Point; thence return over the same route to U.S. Highway 264; thence over U.S. Highway 264 to Engelhard, and return over the same route.

DOCKET NO. B-243, SUB 19

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Winston-Salem City Coach Lines, Winston-Salem, North Carolina - Petition for removal of restrictions for the handling of charter service or charter trips) ORDER CANCELLING COMMON CARRIER CERTIFICATE

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on November 22, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott and Commissioners John W. McDevitt (presiding) and M. Alexander Biggs, Jr.

APPEARANCES:

For the Petitioner:

Arch T. Allen
Allen, Steed & Pullen
Attorneys at Law
P.O. Box 2058, Raleigh, North Carolina

BY THE COMMISSION: By Petition filed with the Commission on October 9, 1967, Winston-Salem City Coach Lines seeks removal of certain restrictions relating to the handling of charter service presently contained in Common Carrier Certificate No. B-243, heretofore issued by this Commission to Petitioner.

The Commission assigned the matter for hearing at the captioned time and place with the further provision that Petitioner be prepared to show cause why Common Carrier Certificate No. B-243 should not be cancelled in its entirety for the reason that Petitioner's operation is confined to the City of Winston-Salem and its commercial zone and is exempt under the provisions of G.S. 62-260.

When the case was called, Attorney for Petitioner agreed, in effect, that Common Carrier Certificate No. B-243 no longer serves any useful purpose and stated that Petitioner desired to surrender said certificate for cancellation.

Upon consideration thereof, the Commission finds as a fact that Winston-Salem City Coach Lines is an intracity motor passenger carrier exempt from regulations, except as to rates, under the provisions of G.S. 62-260 and concludes that Common Carrier Certificate No. B-243 should be cancelled.

IT IS, THEREFORE, ORDERED That Common Carrier Certificate No. B-243, heretofore issued to Winston-Salem City Coach Lines, Winston-Salem, North Carolina, be, and the same is, hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. B-275, SUB 27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
The Board of Directors for the Fayetteville Union)
Bus Station - Disposition of Certain Tie Votes) ORDER

HEARD IN: The Commission Hearing Room, Old YMCA Building, Raleigh, North Carolina, on September 7, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott (presiding) and Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Thomas R. Eller, Jr.

APPEARANCES:

For the Respondents:

Arch T. Allen
Allen, Steed & Pullen
Attorneys at Law

Box 2058, Raleigh, North Carolina
For: W.G. Humphrey
Carolina Coach Company

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina
For: Southern Greyhound Lines of Greyhound Lines, Inc.

R.C. Howison, Jr.
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina
For: L.A. Love
Queen City Coach Company
J.H. Quattlebaum
Fort Bragg Coach Company

James R. Nance
Nance, Barrington, Collier & Singleton
Attorneys at Law
Donaldson & Russell Streets
Fayetteville, North Carolina
For: L.A. Love
Queen City Coach Company
J.H. Quattlebaum
Fort Bragg Coach Company

ELLER, COMMISSIONER: These proceedings arise from tie votes occuring in a meeting on July 14, 1967, of the Board of Directors for the Fayetteville Union Bus Station. The minutes of the meeting were certified to the Commission pursuant to the order in Docket No. B-275, Sub 6. The Commission set public hearing on the three issues arising from the tie votes and placed two additional matters arising in the meeting on docket for hearing.

The three tie votes involve the single disagreement: The basis for prorating certain legal fees and related expenses growing out of labor organization matters at the station. The three members of the Board representing the three carriers associated with the Trailways System (Fort Bragg Coach Company, Carolina Coach Company, and Queen City Coach Company), having an aggregate of one vote under the weighting prescribed in Docket No. B-275, Sub 6, cast their votes for assessing the bills among the carriers on the basis of the relationship of all sales attributable to the terminal, whether those sales occured within or without the terminal. The Director for Greyhound, having one vote under the weighting prescribed in Docket No. B-275, Sub 6, voted "no," it being his position that the basis for assessing these particular expenses should not include revenues derived off-premises at Fayetteville, and that he had an

oral side agreement with the representative of Queen that the basis of assessment would not include off-premise sales.

As to this issue we find and conclude as follows:

1. The Commission's order in Docket No. B-275, Sub 6, prescribes the basis for assessments for the payment of expenses associated with union bus stations organized under the order, and the station at Fayetteville is such a station. The basis prescribed by the order is that revenues produced in a municipality resulting in the use of the station facilities in that municipality, whether produced on or off the station's premises accrue to the credit of the station for the purpose of meeting the expenses of the station. The order has not been amended in this respect and was in force at the time the vote was taken.

2. The director representing Greyhound made the motion to employ counsel, which is the principal item of expense involved. His motion was unconditional and did not provide any method or basis for paying the fees different from the customary basis as prescribed in the order. Nor was there any agreement by the Board of Directors that the basis of assessment now contended for by the director for Greyhound would be used. Any such condition or agreement to a basis different from the basis prescribed in the order, if actually made by the directors, would have been void and inoperative until and unless the order in Docket No. B-275, Sub 6, be amended.

3. As a matter of law, the basis for assessing the expenses involved here includes both off-premise and on-premise revenues and the issue must be resolved for the affirmative on the motions involving this subject.

We come, then, to the two matters placed in the docket for hearing by the Commission. The first is a motion to ratify the purchase of a set of scales, baggage trucks, and an adding machine for use at the terminal and to authorize payment for them and charge them off at one time as an expense item. The motion carried, with the Greyhound representative abstaining. The Greyhound representative abstained solely because he did not think it proper accounting practice to charge off these items as called for by the motion. As a matter of law we agree with the Greyhound position. It is improper accounting practice producing unrealistic and inaccurate results to charge items with an ordinary life much greater than a year to operating expenses other than through a depreciation rate based on the estimated life of the equipment.

The remaining motion, which carried with Greyhound abstaining, was the tabling of plans providing for the complete renovation of the physical plant of the terminal, with the provision that the landlord attempt to negotiate with the carriers for a lease with greater term than presently. This motion passed after previous plans for

renovation had failed to carry and after Greyhound's motion to build a new station with separate facilities had failed of a second.

All carriers operating into the terminal admit its inadequacy. Beyond this there is no agreement. The Trailways carriers insist upon a complete renovation of the existing building with full union facilities, and pledge their full cooperation to this goal, and desire the Commission to order Greyhound to participate. Greyhound refuses to entertain any plan involving its participation in the expense of renovating the terminal unless it may have separate ticket sales and baggage and express handling facilities. The Trailways carriers withhold the unanimous consent which G.S. 62-275 requires before Greyhound may establish independent facilities within the station. In abstaining on the vote to table, the director for Greyhound simply did not care how long or to what extent the landlord might negotiate with the other carriers for a term long enough to justify the capital expenditures required to renovate the terminal; he had no intention of participating in renovating the present union facilities or any new lease for those facilities. The actual motion is, therefore, vain and ineffectual, serving only to symbolize the stalemate which exists at Fayetteville.

The private interests of the two competitive systems, Trailways and Greyhound, over whether there shall be union or separate facilities in the terminals of the major markets in North Carolina have long subverted the public interest. No where is this better illustrated than at Fayetteville. Here we have an important terminal, serving one of the fastest growing areas in the State and one of the largest military establishments in the Country. Both systems admit that the present terminal facilities are inadequate, both for serving the public and themselves. Both claim they want to improve the facilities; neither will voluntarily participate in the renovation, however, unless it is done in accordance with its individual private interest. The Commission is by statute powerless to require independent facilities within the same union terminal. In other words, we are empowered to retain the outmoded status quo or to permit entirely separate stations, but we are not empowered to take the desirable middle ground of independent ticket sales and baggage and express handling within the same station, unless all carriers first give their consent.

In candor, we think it is past time these carriers come together at appropriately high management levels and earnestly negotiate a resolution of their controversy in the public interest.

Accordingly, IT IS ORDERED:

1. That the issues numbered 1, 2, and 3 in these proceedings be, and hereby are, resolved in favor of the motion as made and the same shall be deemed carried.

2. That the motion shown in issue numbered (4) in these proceedings be, and the same hereby is, deemed to have been carried except that, insofar as the motion prescribes accounting treatment inconsistent with the system of accounts applicable to motor passenger carriers approved or adopted by this Commission, the same is reversed and deemed to have failed.

3. That, as to the matters and things raised under paragraph numbered (5) in these proceedings, the Commission hereby announces that it will, simultaneously with the issuance of this order, issue a notice to Mr. H. Vance Greenslit, Chairman of the Board of Greyhound Lines, Inc.; to Mr. R.F. Shaffer, President of Greyhound Lines, Inc.; to Mr. W.E. Jones, President of Southern Greyhound Lines, Division of Greyhound Lines, Inc.; to Mr. Maurice E. Moore, Chairman of the Board of Transcontinental Bus Systems, Inc.; to Mr. Claude A. Jessup, President, Eastern Lines of Transcontinental Bus System, Inc.; to Mr. L.A. Love, President of Queen City Coach Company and Fort Bragg Coach Company; to Mr. C.H. Coughlin, Chairman of the Board of Carolina Coach Company; and to Mr. John J. Reardon, President of Carolina Coach Company, to meet with this Commission in conference for the purpose of reviewing among all parties named the conditions as they exist and encouraging bona fide negotiations among the named persons looking toward amicable adjustment of the differences reflected in this order in the interest of the traveling public and the carrier interests represented by them in this State.

4. That this Commission's Director of Inspections and Investigations and its Director of Motor Transportation are hereby directed to fully investigate conditions at the Fayetteville bus terminal and render the written results of their investigation to this Commission within ten (10) days of the date this order issues.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-15, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Franchise lease agreement between Carolina Coach Company, as Lessor, and George M. Huffstetler, d/b/a Kannapolis Transit Company, as Lessee	))))	ORDER APPROVING FRANCHISE LEASE

BY THE COMMISSION: By application filed with the Commission December 6, 1967, Carolina Coach Company, as Lessor, and George M. Huffstetler, d/b/a Kannapolis Transit Company, as Lessee, seek approval of franchise lease agreement under the terms of which said Lessor leases unto said Lessee certain motor passenger operating authority.

Applicants represent, and the records of the Commission so reflect, that the lease of the involved franchise routes has been in effect for a number of years and the new agreement for which approval is sought merely represents an extention of the existing franchise lease until February 28, 1970. Applicants further represent that there are no competing or connecting carriers in the territory covered by the lease.

The terms and conditions of said franchise lease agreement are fully set out therein.

Upon consideration thereof, the Commission is of the opinion and finds that said application should be approved.

IT IS, THEREFORE, ORDERED That the lease of operating rights described in said lease agreement be approved and that George M. Huffstetler, d/b/a Kannapolis Transit Company, be authorized to operate under the terms thereof as Lessee of Carolina Coach Company in the transportation of passengers between the points and over the routes particularly described in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Carolina Coach Company must comply with Rule R2-29 which requires that it supervise the operation of its lessee to the extent of requiring said lessee, during the term of the lease, to promptly pay all debts of the nature set out in G.S. 62-111 and upon the termination of the lease, whether by agreement between the parties, by order of the Commission or otherwise, operations shall not be resumed by the lessor or by any transferee of the lessor until all such debts shall have been paid.

ISSUED BY ORDER OF THE COMMISSION.
This the 15th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. B-15, SUB 9 — George M. Huffstetler
d/b/a Kannapolis Transit Company
Kannapolis, North Carolina

EXHIBIT B — Lease agreement between Carolina Coach Company, Lessor, and George M. Huffstetler, d/b/a Kannapolis Transit Company, Kannapolis, N.C., Lessee, as follows:

In and about Kannapolis described as follows: From Main-East Seventh-Lane Elwood-Venus-Cannon Blvd.-Ridge Avenue. From Main-East F-Centerview-Center Grove Road-to Royal Oaks Development. From Main-West First-Elm-Eighth-No. Walnut-Eleventh-Kemball-Snipe-Main. From Main-Beth Page Road.

In order to enable Lessee to transport workers employed in and about Kannapolis, Concord and China Grove to and from their places of employment, and points along the franchise routes described in paragraph 1 hereof, Lessor does hereby lease and grant unto lessee the privilege of operating daily schedules between Kannapolis and China Grove and Concord over the franchise route of Lessor, together with the privilege of picking up and discharging passengers along said route. It is understood, however, that lessor shall continue its existing franchise operations over its route between Kannapolis, China Grove and Concord.

DOCKET NO. B-275, SUB 28

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition for approval of Lease Agreement)
involving the Washington Union Bus Station) ORDER

BY THE COMMISSION: By letter (treated as a joint Petition) filed with the Commission on December 1, 1967, Deward Smith and wife, Lorene P. Smith, as Lessors, and Carolina Coach Company and Seashore Transportation Company, as Lessees, seek approval of a Lease Agreement made and entered into on October 31, 1967, under the terms of which said Lessors have leased unto said Lessees the property described in said Lease Agreement for a period of twenty (20) years from the date that the Lessors complete the construction and erection of the building to be used by Lessees as a bus station, which date is estimated to be around January 15, 1968. The terms and conditions of said lease are fully set out in said agreement, which provides, among other things, that Lessees shall pay as rent for said premises a monthly rental of Six Hundred Fifty ($650.00) Dollars.

Upon consideration of said Lease Agreement and the Petition attached thereto, the Commission is of the opinion that the same should be approved.

IT IS, THEREFORE, ORDERED That the Lease Agreement made and entered into on October 31, 1967, by and between Deward Smith and wife, Lorene P. Smith, as Lessors, and Carolina Coach Company and Seashore Transportation Company, as Lessees, leasing unto said Lessees the property described in said Lease Agreement be, and the same is, hereby approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-13, SUB 19

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Lease of certain motor passenger authority from Lawrence C. Stoker, d/b/a Suburban Coach Lines, to Robert Ballard, d/b/a Emma Bus Line	)	ORDER APPROVING FRANCHISE LEASE

BY THE COMMISSION: By application filed with the Commission on July 31, 1967, Lawrence C. Stoker, d/b/a Suburban Coach Lines, as Lessor, and Robert Ballard, d/b/a Emma Bus Line, as Lessee, seek approval of franchise lease agreement under the terms of which said Lessor leases unto said Lessee certain motor passenger operating authority which reads as follows:

> "From the intersection of Deaverview Road and Cedar Hill Road, over Cedar Hill Road to the junction of an unnumbered road, and thence over said unnumbered road in northwesterly direction to the top of Deaverview Mountain, and return over the same route."

Applicants represent that the purpose of the proposed franchise lease is to combine the operation of the "Starnes Cove Run" of Lessor with the "Johnson School Run" of Lessee to reduce operational expenses; that Lessee has the facilities, the business experience, the financial ability, and is otherwise qualified to perform the transportation services in a satisfactory manner. Applicants further represent that there will be no reduction in service over the two routes.

The terms and conditions of said franchise lease agreement are fully set out therein.

Upon consideration thereof, the Commission is of the opinion and finds that said application should be approved.

IT IS, THEREFORE, ORDERED That the lease of operating rights described in the lease agreement of date June 29, 1967, be approved and that Robert Ballard, d/b/a Emma Bus Line, be authorized to operate under the terms thereof as Lessee of Lawrence C. Stoker, d/b/a Suburban Coach Lines, in the transportation of passengers between the points and over the routes particularly described in Exhibit A attached hereto and made a part hereof.

IT IS FURTHER ORDERED That prior to beginning of operation of the authority herein leased, said Lessee must file with the Commission a tariff of rates and charges, appropriate evidence of insurance, lists of equipment and otherwise comply with the rules and regulations of the Commission, all of which must be done within thirty (30) days from the date of this order.

IT IS FURTHER ORDERED That Lawrence C. Stoker, d/b/a Suburban Coach Lines, must comply with Rule R2-29 which requires that it supervise the operation of its lessee to the extent of requiring said lessee, during the term of the lease, to promptly pay all debts of the nature set out in G.S. 62-111, and upon the termination of the lease, whether by agreement between the parties, by order of the Commission, or otherwise, operations shall not be resumed by the lessor, or by any transferee of the lessor, until all such debts shall have been paid.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of August, 1967.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

DOCKET NO. B-13, SUB 19

Robert Ballard
d/b/a Emma Bus Line
32 South Lexington Avenue
Asheville, North Carolina

EXHIBIT A

Transportation of Passengers, baggage, mail and express, as lessee of Lawrence C. Stoker, d/b/a Suburban Coach Lines, over the following route and between the following points:

From the intersection of Deaverview Road and Cedar Hill Road, over Cedar Hill Road to the junction of an unnumbered road, and thence over said unnumbered road in a northwesterly direction to the top of Deaverview Mountain, and return over the same route.

DOCKET NO. B-69, SUB 98

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of The petition of Queen City Coach Company to discontinue bus service between Hendersonville, North Carolina, and Bat Cave, North Carolina, over U.S. Highway 64	) RECOMMENDED) ORDER) DENYING) PETITION

HEARD IN: Henderson County Courthouse, Hendersonville, North Carolina, on December 7, 1965, at 9:00 a.m.

BEFORE: Commissioner Sam O. Worthington

APPEARANCES:

For the Petitioner:

R.C. Howison, Jr.
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina

For the Protestant:

Ray W. Ireland
Hendersonville Chamber of Commerce
P.O. Box 809, Hendersonville, North Carolina
For: Hendersonville Chamber of Commerce

WORTHINGTON, COMMISSIONER: On July 16, 1965, Queen City Coach Company (petitioner) filed petition with the North Carolina Utilities Commission (Commission) for authority to discontinue passenger bus service between Hendersonville, North Carolina, and Bat Cave, North Carolina, over U.S. Highway 64. It caused notice to be posted along the route and in the bus used in rendering the service and in bus stations of its purpose to file for permission to discontinue service prior to the filing of its petition.

A number of people interested in the bus service and living along the bus route wrote the Commission protesting the discontinuance of the service. The Commission scheduled public hearing on the petition and required petitioner to give notice to the public through notices published in local newspapers published at Hendersonville, wherein the purpose, time and place for such hearing were designated. These notices were published by the petitioner and provided that the hearing would be held in the Henderson County Courthouse at Hendersonville for the convenience of witnesses and interested parties.

Hearing was held on December 7, 1965, as scheduled. The petitioner was present with witness and counsel. A large

number of people appeared in protest and used Ray W. Ireland of the Hendersonville Chamber of Commerce as their spokesman. Petitioner offered evidence through testimony of witness and exhibits. A large number of people living along the bus route and using the services of the bus testified to their need for bus service and in opposition to the removal or discontinuance of the service.

From the record evidence the following FACTS are found:

1. Petitioner is a certificated common carrier of passengers by motor bus under certificate of public convenience and necessity issued to it by the Commission and as such has actively and regularly rendered passenger bus service over U.S. Highway 64 between Hendersonville and Bat Cave for more than 30 years.

2. Petitioner holds certificated authority from the Commission for the operation of passenger bus service over many of the highways of the State, among which is the highway from Asheville by way of Chimney Rock to Charlotte, North Carolina, and from Asheville by way of Hendersonville, North Carolina, and Spartanburg, South Carolina, to Charlotte, North Carolina.

Petitioner operates regular schedules between Asheville and Charlotte by way of Shelby and regular schedules between Asheville and Charlotte by way of Hendersonville, North Carolina, and Spartanburg, South Carolina.

3. For the 12 months' period ending with September, 1965, petitioner operated three round-trip schedules daily between Hendersonville and Chimney Rock by way of Bat Cave. It rendered this service with one bus and one driver which are dedicated to this one route and furnish no other bus service except what is rendered over this particular route. The distance involved between Hendersonville and Bat Cave or Chimney Rock is about 15 miles. The driver of the bus was domiciled in Hendersonville and schedules were designed so that the bus left Hendersonville at 9:05 a.m., arriving at Chimney Rock at 9:45 a.m., then departing Chimney Rock at 11:15 a.m. and arriving back in Hendersonville at 11:59 a.m. The bus then left Hendersonville at 2:35 p.m., arriving Chimney Rock at 3:15 p.m., departing Chimney Rock at 4:30 p.m., arriving at Hendersonville at 5:15 p.m. and then departing Hendersonville at 5:20 p.m., arriving Chimney Rock at 6:00 p.m., then departing Chimney Rock at 7:20 p.m. and arriving back in Hendersonville at 7:55 p.m.

4. Petitioner's testimony and exhibits indicate an average of 3.41 passengers per trip with average revenue per mile of .0894 cents for the 39,170 miles traveled during the 12 months' period and gross revenue of $3,503.60, resulting in an out-of-pocket loss of $10,166.72. In arriving at these results petitioner used system average operating costs and credited to the operation only that part of the passenger revenue produced through the application of rates

to all passenger traffic for the distance traveled as between Hendersonville and Bat Cave. It included no revenue for express and it allowed no revenue as credit to the operation over this segment which is earned by petitioner from fares paid by passengers moving from points beyond Chimney Rock into Hendersonville or from Hendersonville to places beyond Chimney Rock.

5. In April of 1966 the Hearing Commissioner by letter suggested to counsel for petitioner that if petitioner would rearrange the schedules so as to base the bus at Chimney Rock and operate an early morning schedule from Chimney Rock into Hendersonville and then operate generally on the schedules as it had been using, with the exception of the late schedule from Chimney Rock to Hendersonville, and operate these schedules over this route until September 15 and submit a statement of all revenues, including express revenues and amounts involved in ticket sales and express to and from points beyond Chimney Rock, and all operating expenses from the time of beginning operations under these schedules to September 1, 1966, and submit them between September 1 and September 15, the Commission would hold the matter in abeyance and give consideration to this additional information with a view to determining whether any operation should be continued or if the entire operation should be discontinued.

6. Petitioner made changes in the schedules and has as of August 18, 1967, submitted statement of passenger use and express use of the service, including revenues received and mileage traveled between the dates of May 20, 1966, and August 31, 1966, inclusive. The statement includes no information of operating costs for the period in question. The information furnished indicates that a total of 2,573 passengers used the service for that period. 1,105 of these passengers used the service only as between Hendersonville and Chimney Rock. The rest of the passengers used the connecting services of petitioner with its Asheville-Charlotte runs or its Asheville-Hendersonville-Spartanburg runs. Petitioner's statement indicates total revenue for the period of $1,201.44 and the mileage traveled as 11,088 for an earning of 10.8 cents in revenue per mile. The revenue so allocated is simply that part of the total revenue which would have been earned under the same circumstances by the operation between Hendersonville and Chimney Rock and credits the other revenue to connecting lines.

7. The revenue received by petitioner for the test period through operation over this line actually amounted to $5,403.94, and when related to the mileage of 11,088 miles resulted in 48.7 cents per mile in earnings.

8. The some 1,400 passengers who used services of petitioner over this route during the period from May 20 through August 31 were either destined to or from Hendersonville and used petitioner's connecting services at

Chimney Rock. If the services between Hendersonville and Chimney Rock had not been available, these passengers would have had to use petitioner's service into Asheville and there change to another of petitioner's lines in order to reach Hendersonville. Possibly some of them might have used petitioner's services between Hendersonville and Spartanburg, South Carolina. In either instance the time consumed and the distance traveled would have been much greater and resulted in great inconvenience to them.

9. During the same period more than 1,100 passengers in the 15-mile distance between Hendersonville and Chimney Rock used petitioner's services over this route. These passengers, in the absence of petitioner's service over this route, would be entirely without public transportation service.

10. Petitioner has extensive intrastate and interstate passenger bus operations and enjoys an operating ratio well below 90.

CONCLUSIONS

Petitioner has continuously operated passenger bus service over U.S. Highway 64 between Hendersonville and Chimney Rock for many years. Both ends of this segment of service connect with other services of petitioner at both Hendersonville and Chimney Rock. The services that it connects with at these points are actually long-line services. It has elected to serve this route with one bus and one driver dedicated to this particular route. It has never seen fit to make this route a part of its regular service from either one of its connecting lines. It now seeks to discontinue service over this route and leave the citizens along this route, which it has rendered service to for so many years, without any public transportation service. In doing so, it necessarily seeks to require passengers using its service from Charlotte to Hendersonville to travel much longer hours and much longer distances in that they will either have to go into Asheville and change buses in order to get to Hendersonville or they will have to go by way of Spartanburg, South Carolina. Petitioner seeking to discontinue this service has the burden to establish that public convenience and necessity does not require continuance of the service. The fact that the petitioner may be making a profit or operating at a loss over this segment of the route is not the criterion. Public convenience and necessity is the first and foremost criterion.

Unquestionably, the revenues received by petitioner, when confined to the earnings on this particular 15-mile segment, do not produce a profit. Unquestionably, this would be true as between most any 15-mile segment of petitioner's operations throughout the country. Petitioner's operation as between Asheville and Chimney Rock, confined to the earnings as to those two points, does not produce a profit.

Neither does petitioner's operation between Shelby and Charlotte do so. Most assuredly the overall operation is necessary to success. The operation of this route in question is just as essential to petitioner's overall operation as any other segment of its operation. Actually, when the overall revenue resulting to petitioner from the operation of this segment is accounted for petitioner is actually earning about 48.7 cents per mile. This is about its normal earnings throughout its system. The discontinuance of service over this segment of petitioner's operation simply because the actual revenue produced between the termini of the segment is not sufficient to pay the operating expenses based upon systemwide operating costs would result in grave injustice not only to the people as between the termini who use the service but to many other persons who are using this service. Petitioner has made no effort to allocate revenue to this segment of operation from passengers using this service from or to points beyond the termini but has at the same time charged this segment with systemwide operating costs. Discontinuance of passenger bus service between Hendersonville and Bat Cave or Chimney Rock will result in serious inconvenience to the general public. The savings in operating cost to the petitioner, if any, will be infinitesimal.

The petition to discontinue this service will be denied. Petitioner has for some time been operating schedules suggested by the Hearing Commissioner. In denying the petition the Commission does not propose to dictate to petitioner the schedules it shall use. The petition is denied because public convenience and necessity requires the continuance of the operation. Certainly, petitioner will design its schedules in keeping with good passenger bus service operations and so as to be attractive to not only the people living and using the service between Hendersonville and Chimney Rock but the many other passengers who are using this service to and from Hendersonville.

IT IS, THEREFORE, ORDERED that the petition of Queen City Coach Company to discontinue passenger bus service over U.S. Highway 64 between Hendersonville and Bat Cave be and the same is hereby denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-69, SUB 98

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition of Queen City Coach Company, Charlotte, North Carolina, for authority to discontinue service between Hendersonville, North Carolina, and Bat Cave, North Carolina, over U.S. Highway 64	)	ORDER ALLOWING EXCEPTIONS

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on October 16, 1967

BEFORE: Chairman Harry T. Westcott (presiding) and Commissioners John W. McDevitt, Clawson L. Williams, and Thomas R. Eller, Jr.

APPEARANCES:

For the Petitioner:

P.C. Howison, Jr.
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina

For the Protestant:

Ray W. Ireland
Hendersonville Chamber of Commerce
Hendersonville, North Carolina

ELLER, COMMISSIONER: This matter arises on oral argument on exceptions duly filed to a recommended order entered on August 30, 1967, denying Queen City Coach Company's petition to abandon its route and discontinue service between Hendersonville, North Carolina, and Bat Cave, North Carolina.

Having fully considered the exceptions and reviewed the transcript of evidence in light thereof, the Commission now finds and concludes that the evidence, and the greater weight thereof, does not justify the findings and conclusions contained in the recommended order, that said recommended order should be vacated and set aside and not allowed to become the final order of the Commission, and that the petition should be approved.

A careful review of the competent, material, and substantial evidence discloses that the public convenience and necessity no longer justifies the service sought to be abandoned and that to require the continuation of the service would result in undue and unreasonable financial burden upon Petitioner in light of the lack of public need and demand revealed by the record.

Accordingly, IT IS ORDERED:

1. That the exceptions to the recommended order filed in this docket be, and the same hereby are, allowed and that said recommended order be, and the same hereby is, vacated and set aside.

2. That the petition filed in this docket by Queen City Coach Company be, and the same hereby is, approved, and Queen City Coach Company is hereby authorized to abandon service over its route between Hendersonville, North Carolina, and Bat Cave, North Carolina, effective at midnight, November 30, 1967.

3. The Chief Clerk of this Commission is hereby authorized and directed to cancel the aforesaid route from the certificate of authority issued by this Commission to Queen City Coach Company.

4. Petitioner, Queen City Coach Company, is hereby directed to file appropriate tariff provisions pursuant to the Commission's rules giving at least ten (10) days' notice of the date of discontinuance of the aforesaid service.

ISSUED BY ORDER OF THE COMMISSION.
This the 16th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. B-88, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suburban Bus Lines Company - Petition) ORDER
to discontinue operations over its Old) APPROVING
Reidsville Road Route, Except on Saturdays) APPLICATION

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on Wednesday, November 15, 1967, at 2:00 p.m.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

For the Petitioner:

Lindsay Moore, Manager
Suburban Bus Lines Company
740 West Broad Street
High Point, North Carolina

No Protestants.

ELLER, COMMISSIONER: After posting notice of its intentions, Suburban Bus Lines Company (Suburban) of Greensboro, North Carolina, filed for authority to reduce its passenger service over its "Old Reidsville Road" route from daily service to Saturday only. The Commission set public hearings on the petition and prescribed additional notice with which Petitioner complied. The Commission received letters from Mrs. Daisy Brame, Miss Annie L. Vinson, Mrs. C.L. Donnell, Mr. Cleo C. Paschal, and Mr. George L. King opposing reduction of the service. Each correspondent was advised of the scheduled hearings and of their opportunity to appear and present evidence for appropriate consideration therein. No one appeared in opposition to granting approval of the petition.

Petitioner was represented by its manager and principal stockholder, Mr. Lindsay F. Moore, who presented testimony and exhibits intended to show that public convenience and necessity no longer justifies the service as presently rendered and that operations over the "Old Reidsville Road" route are unreasonably burdensome financially upon Petitioner's total operations.

The competent, material, and substantial evidence adduced justifies the following

FINDINGS OF FACT

1. Petitioner is a duly existing North Carolina corporation and motor common carrier of passengers with headquarters in High Point, North Carolina, and is the owner, holder, and operator of the authority contained in North Carolina Utilities Commission Certificate No. B-88. The specific route involved in this application appears as Item No. 4 in said certificate and reads as follows:

"4. From Greensboro north along Old U.S. Highway 29 about 2.5 miles to the intersection of said highway and a road known as the Brightwood School Road and westwardly on Brightwood School Road .6 of a mile to Brightwood School at the intersection of Lee's Chapel Road, thence along Lee's Chapel Road, sometines known as Wallington Road, in a southwestern direction, crossing the main line of the Southern Railway a distance of 2/3 miles to the intersection of this road with the Church Street extension, commonly referred to as Ham Town Road, near the Jesse Wharton School, and along the Ham Town Road in a southerly direction 1/2 miles to Ham Town at the intersection of Church Street extension with Field Street at Thompson Grocery, return on the Ham Town Road to its intersection with the Wallington Road, thence westwardly along this road, which may be sometimes referred to as the Pisgah Road, about three to four miles to the intersection of Lawndale and return to Greensboro over the same route."

2. Petitioner operates one 33-passenger bus on eight round trips of about 20 miles each from and to the Greensboro bus terminal daily over the aforesaid route. Excluding Saturdays, an average of about 12 passengers ride the bus per round trip and an average of about 101 passengers daily ride the bus. Including Saturdays, average daily revenues produced on the bus are $28.94. Based on daily average revenues, present operations produce $173.64 weekly. When all reasonable legitimate and direct operating expenses are deducted from these revenues, a weekly operating loss results. Suburban's average operating revenues per mile on the run are about 18 cents, while its average per mile operating expense is about 30 cents.

3. Average passengers and revenues as set forth in Finding of Fact No. 2 show that the public convenience and necessity does not in reasonableness and justice require Suburban Bus Lines Company to continue offering its daily service over its "Old Reidsville Road" route. To require Suburban to continue this service, other than on Saturdays, would be unduly and unjustly burdensome and would tend to jeopardize the other operations of Suburban Bus Lines Company.

CONCLUSIONS

The volume of passenger traffic and the revenues received therefrom are not sufficient to justify requiring Suburban Bus Lines Company to continue the operation of its "Old Reidsville Road" route, except on Saturdays. To require Suburban to sustain operating losses of the magnitude which the evidence shows it is experiencing would jeopardize the financial and operational stability of the company.

IT IS, THEREFORE, ORDERED:

1. That, effective December 15, 1967, Suburban Bus Lines Company be, and it hereby is, allowed to discontinue the operation of its "Old Reidsville Road" route as specifically set forth in Finding of Fact No. 1 herein, except on Saturdays.

2. That the change in service herein authorized be reflected in a revised time table which Applicant shall file with the Commission pursuant to Rule R2-59.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-243, SUB 18

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Winston-Salem City Coach Lines,)
Inc., to abandon its franchise route between) ORDER
Winston-Salem and Walkertown via Old U.S.) GRANTING
Highway 311, serving all intermediate points) PETITION

HEARD IN: Raleigh, North Carolina, on January 31, 1967

BEFORE: Commissioners Clarence H. Noah, Thomas R. Eller, Jr., and John W. McDevitt (presiding)

APPEARANCES:

For the Petitioner:

Arch T. Allen
Allen, Steed & Pullen
Attorneys at Law
Box 2058, Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
General Counsel
N.C. Utilities Commission
Raleigh, North Carolina

For the Using and Consuming Public:

George A. Goodwyn
Assistant Attorney General
Raleigh, North Carolina

McDEVITT, COMMISSIONER: Winston-Salem City Coach Lines, Inc., filed its application on December 8, 1966, for authority to abandon that portion of its intrastate passenger common carrier certificate B-243, described as follows:

"2. From Winston-Salem over Old U.S. Highway 311 to Walkertown and return, serving all intermediate points."

Public hearing was scheduled and held in Raleigh on January 31, 1967. Notice of the application and hearing was published according to law. The Commission received one letter protesting the proposed abandonment, accompanied by a petition signed by patrons who wish to have the service continued. No one appeared at the hearing to protest or intervene in the proceeding.

The applicant introduced evidence tending to show that it operates five round trip schedules daily, except Sunday and holidays, between Winston-Salem and Walkertown over Old U.S.

Highway 311, serving all intermediate points; that the distance between Winston-Salem and Walkertown is 9 miles; that 4 miles of the route is within the city limits of Winston-Salem where passenger bus service is available over a nearby parallel route to 50 percent of the patrons who are located within the city; that patrons are usually commuters and shoppers; that Southern Greyhound Lines operates three passenger schedules daily between Winston-Salem and Walkertown over a different route, U.S. Highway 311; that passenger traffic and revenues have steadily declined since 1961; that the company reduced the number of daily schedules between Winston-Salem and Walkertown from 7 to 5 in June, 1966 and increased fares by 10 percent on September 1, 1966, in an effort to obtain sufficient revenues to maintain the service; that the operating ratio of the applicant was 105.54 for the year 1964, 104.98 for 1965 and 105.51 for 1966; that applicant's net loss was $27,344 for 1965, and $33,336 for 1966; that the average total daily revenue on the Winston-Salem-Walkertown service for the test period January 3-21, 1967, was $21.75 while the daily operating cost, based on 52.2 cents per mile was $49.50 resulting in an estimated daily loss of $27.84 or $8,686 for the year 1966; that buses utilized in this service are 19 years of age and average 3 to 4 miles per gallon of fuel.

Upon the evidence adduced and relevant records the Commission makes the following

FINDINGS OF FACT

1. The bus service over the route proposed to be abandoned results in a substantial loss to the applicant.

2. During the test period January 3-21, 1967, an average of 56 passengers were hauled daily for an average of 5.6 passengers per trip. Four trips daily were usually made without passengers.

3. Fifty percent of the passenger traffic is within the city limits of Winston-Salem where alternate service is available.

4. The applicant experienced a net loss of $33,336 in 1966 and $27,344 in 1965. Operating ratios were 105.51 for 1966, 104.98 for 1965, and 105.54 for 1964.

5. Public convenience and necessity for the operation of the proposed schedules to be abandoned does not justify the continuation of the operation of this service.

CONCLUSIONS

Applicant's net operating losses and unfavorable operating ratios for recent years, coupled with declining passenger traffic requires the applicant to curtail service which jeopardizes the financial and operational stability of the company.

The volume of passenger traffic on the Winston-Salem-Walkertown schedules, which resulted in an average trip load of 5.6 passengers during the test period, is not sufficient to justify requiring the company to sustain operating losses of the magnitude which the evidence shows that it experienced in 1966. Fifty percent of the passenger traffic can reasonably be accommodated by other intracity service.

We conclude that there is a lack of public interest to justify the continued operation of this route.

IT IS, THEREFORE, ORDERED That the application of Winston-Salem City Coach Lines, Inc., to abandon service between Winston-Salem and Walkertown over Old U.S. Highway 311 be, and the same is hereby, granted.

IT IS FURTHER ORDERED That passenger common carrier certificate B-243 heretofore issued to Winston-Salem City Coach Lines, Inc., be amended in accordance with the authority herein granted.

IT IS FURTHER ORDERED That a copy of this order be transmitted to the applicant and to counsel.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-51, SUB 13

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application for approval of the transfer of Passenger Common Carrier Certificate No. B-51 from R.H. Madden and J.C. Burke (a partnership), d/b/a Community Bus Company, to J.C. Burke (individual), d/b/a Community Bus Company	ORDER APPROVING TRANSFER OF FRANCHISE

BY THE COMMISSION: By application filed with the Commission on February 14, 1967, authority is sought to transfer Passenger Common Carrier Certificate No. B-51, together with the operating rights contained therein from R.H. Madden and J.C. Burke, d/b/a Community Bus Company (Transferors), to J.C. Burke, d/b/a Community Bus Company (Transferee), 715 East Webb Avenue, Burlington, North Carolina.

It appears from the application and the records of the Commission that the acquisition of Certificate No. B-51 by transferors from Burlington Bus Lines, Inc., was approved by

the Commission by Order dated October 11, 1966, in Docket No. B-51, Sub 12; that the proposed transfer results from the dissolution of the partnership, heretofore entered into by and between transferors, namely, R.H. Madden and J.C. Burke under the firm name Community Bus Company and that Transferee, J.C. Burke, is qualified, financially and otherwise, to acquire said authority and to furnish adequate service thereunder on a continuing basis.

It further appears that there are no debts and obligations, including taxes due the State of North Carolina or any political subdivision thereof, against transferors.

Upon consideration of said application, the Commission is of the opinion and finds that the transfer of Passenger Common Carrier Certificate No. B-51 from R.H. Madden and J.C. Burke (a partnership), d/b/a Community Bus Company to J.C. Burke (individual), d/b/a Community Bus Company should be approved.

IT IS, THEREFORE, ORDERED That the sale and transfer of Common Carrier Certificate No. B-51 which includes the authority described in Exhibits A and B hereto attached from R.H. Madden and J.C. Burke, d/b/a Community Bus Company to J.C. Burke, d/b/a Community Bus Company be, and the same is, hereby approved.

IT IS FURTHER ORDERED That J.C. Burke, d/b/a Community Bus Company file with the Commission a tariff of rates and charges, certificate of the required insurance within the limits required by the Commission, lists of equipment, designation of process agent, and otherwise comply with the rules and regulations issued by this Commission and begin active operation under the authority herein transferred within thirty (30) days from the date of issuance of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

COMMUNITY BUS COMPANY
J.C. BURKE, d/b/a
BURLINGTON, NORTH CAROLINA CERTIFICATE NO. B-51

EXHIBIT A To transport passengers, baggage, mail and express over the following routes serving all intermediate points except as to such restrictions as may be indicated in the route description.

1. Over certain designated city streets in Burlington and Graham and from the southern

corporate limits of Graham over N.C. Highway 87 to Bethany Church; thence over unnumbered hardsurfaced highway to the village of Swepsonville and return over same route.

Ref: Docket No. 3059.

2. Over certain streets in the City of Burlington and unnumbered highway from intersection of N.C. Highway 62 (at Roney's Service Station); thence to Hopedale and return by same route.

Ref: Docket No. 3413.

3. From Roney's Store on U.S. Highway 62 to Smith's Store and from Smith's Store over unnumbered highway 2.6 miles to Hopedale and return over same route.

Ref: Docket No. 3681.

4. Over certain designated streets in the cities of Burlington and Graham and over U.S. Highway 54 from the intersection of Harden Street in Graham to the intersection of N.C. Highway 54 and Maple Avenue in Burlington.

Ref: Docket No. 4415.

5. Over N.C. Highway 87 between Burlington, N.C., and Altamahaw, N.C.

Ref: Order in Docket No. B-51, Sub 9, dated March 13, 1959.

Ref: Order in Docket No. B-51, Sub 10, dated October 29, 1962.

COMMUNITY BUS COMPANY
J.C. BURKE, d/b/a
BURLINGTON, NORTH CAROLINA CERTIFICATE NO. B-51

EXHIBIT B - Leases and Operating Agreements

Lease agreement between Carolina Coach Company, as Lessor, and J.C. Burke, d/b/a Community Bus Company, as Lessee, as follows:

1. Between Burlington and Gibsonville via Elon College over N.C. Highway 100.

Ref: Order in Docket No. B-51, Sub 11, dated November 21, 1962, and Assignment of Lease in Docket No. B-51, Sub 12.

DOCKET NO. B-45, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for approval of the transfer of Passenger Common Carrier Certificate No. B-45 from O.S. Hunt, d/b/a Hunt's Bus Lines, to Baxter James Barrier, d/b/a Shelby Bus Lines, 114 North Washington Street, Shelby, North Carolina	))))))

ORDER APPROVING TRANSFER OF FRANCHISE

BY THE COMMISSION: By application filed with the Commission on May 26, 1967, authority is sought to transfer Passenger Common Certificate No. B-45, together with the operating rights contained therein, from O.S. Hunt, d/b/a Hunt's Bus Lines (Transferor), to Baxter James Barrier, d/b/a Shelby Bus Lines (Transferee).

It appears from the application that Transferor is presently conducting operations under the rights herein proposed to be transferred; that there are no operating debts and obligations, including taxes due the State of North Carolina, or any political subdivision thereof, outstanding against Transferor and that the total consideration involved in the proposed transaction is $20,000. It further appears that Transferee has had some twenty-five (25) years experience in the transportation of passengers by motor vehicle; that for the past three (3) years, Transferee has served as manager of an operation similar in some respects to the operation which he proposes to acquire herein and that Transferee has a net worth of approximately of $16,000 and is qualified by experience and otherwise to perform the proposed service and furnish adequate service on a continuing basis.

Upon consideration of said application, the Commission is of Mary Laurens Richardson, Chief Clerk Certificate No. B-45 to Baxter James Barrier, d/b/a Shelby Bus Lines should be approved.

IT IS, THEREFORE, ORDERED That the sale and transfer of Passenger Common Carrier Certificate No. B-45 which includes the authority described in Exhibit A hereto attached from O.S. Hunt, d/b/a Hunt's Bus Lines, to Baxter James Barrier, d/b/a Shelby Bus Lines, be, and the same is, hereby approved.

IT IS FURTHER ORDERED That Baxter James Barrier, d/b/a Shelby Bus Lines file with the Commission a tariff of rates and charges, certificate of the required liability insurance within the limits required by the Commission, lists of equipment, designation of process agent and otherwise comply with the rules and regulations issued by this Commission and begin active operation under the authority herein

transferred within thirty (30) days from the date of issuance of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-45 SUB 2 — Baxter James Barrier
d/b/a Shelby Bus Lines
114 North Washington Street
Shelby, North Carolina

EXHIBIT A — To transport passengers, baggage, mail and express over the following routes serving all intermediate points except as to such restrictions as may be indicated in the route description.

1. Beginning at Lawndale, N.C.; thence over an unnumbered highway to Casar; thence over N.C. Highway No. 10 to Polkville; from Polkville over N.C. Highway No. 26 to Shelby; from Shelby over N.C. Highway No. 18 to Fallston; from Fallston over N.C. Highway No. 180 to Lawndale, and return.

2. From Lawndale, N.C., west over N.C. Highway 180 to Polkville, N.C., a distance of five miles, and return.

DOCKET NO. B-82, SUB 11

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Silver Fox Lines (a corporation) - Petition for approval of the sale and transfer of all outstanding stock of Silver Fox Lines (a corporation) from Robert L. Gibson to Lindsay F. Moore and Samuel G. Moore	ORDER APPROVING STOCK TRANSFER

By joint petition filed with the Commission on April 7, 1967, Robert L. Gibson, as transferor, and Lindsay F. Moore and Samuel G. Moore, as transferees, seek approval of the sale and transfer of all the outstanding stock of Silver Fox Lines (a corporation), hereinafter for convenience referred to as Silver Fox, from said transferor to said transferees.

It appears from the petition that transferor is the sole owner of all of the stock of Silver Fox; that transferor has entered into an agreement with transferees under the terms of which transferor agrees to sell and convey to transferees

all of the stock in Silver Fox; that transferees have agreed to purchase from transferor all of said stock and that the agreed price for said shares of stock is $5,000 to be paid in cash by transferees.

Petitioners further represent that Lindsay F. Moore and Samuel G. Moore have successfully worked as bus line drivers and operators more than fifteen (15) years; that said transferees are experienced in bus line operations and management; that they have competent office personnel who will be in charge of all records pertaining to the operation of Silver Fox and that the transaction will not result in a substantial change in the service and operations of Silver Fox, nor will it affect the operations and service of any other motor carrier.

It further appears from the petition that the operating debts and obligations of transferor, including taxes due the State of North Carolina, or any subdivision thereof, are paid or adequately secured.

Upon consideration thereof, the Commission is of the opinion and finds that the change of control of Silver Fox from transferor to transferees through stock transfer is justified by the public convenience and necessity as contemplated under G.S. 62-111(a) and that the petition should be approved.

IT IS, THEREFORE, ORDERED That the change of control of Silver Fox Lines (a corporation) through the sale and transfer of all the issued and outstanding shares of stock of said corporation from Robert L. Gibson to Lindsay F. Moore and Samuel G. Moore be, and the same is, hereby approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-7, SUB 81

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition of Southern Greyhound Lines of Greyhound Lines, Inc., to establish separate passenger depot or station facilities at Charlotte, North Carolina, and Raleigh, North Carolina	))))	ORDER GRANTING PETITIONER'S REQUEST

HEARD IN: Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on November 29 and 30 and December 1, 1966, and on January 17, 18, 19 and 20, 1967

BEFORE: Chairman Harry T. Westcott (presiding), and Commissioners Sam O. Worthington, Clarence H. Noah, Thomas R. Eller, Jr., and John W. McDevitt

APPEARANCES:

For the Petitioner:

J. Ruffin Bailey
Kenneth Wooten, Jr.
and Wright T. Dixon
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina

For Intervenors-Protestants:

Arch T. Allen
and Tom Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P.O. Box 2058, Raleigh, North Carolina
For: Carolina Coach Company

Arch T. Allen
Allen, Steed & Pullen
Attorneys at Law
P.O. Box 2058, Raleigh, North Carolina
For: Board of Directors of the Raleigh Union Bus Station

R.C. Howison, Jr.
Joyner & Howison
Attorneys at Law
P.O. Box 109, Raleigh, North Carolina
For: Queen City Coach Company
Carolina Scenic Stages

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P.O. Box 2403, Raleigh, North Carolina
For: Raleigh Chamber of Commerce

George A. Goodwyn
Assistant Attorney General
Room 210, Library Building
Raleigh, North Carolina
For: The Using and Consuming Public

WORTHINGTON, COMMISSIONER: Southern Greyhound Lines of Greyhound Lines, Inc. (petitioner), filed petition with the North Carolina Utilities Commission (Commission) on September 12, 1966, requesting authority to establish and maintain a separate depot or station for the security, accommodation and convenience of the traveling public at Charlotte, North Carolina, and at Raleigh, North Carolina, and to permit it to withdraw from the Union Passenger Depot Stations at each of these locations. The Commission scheduled public hearing on the petition and required petitioner to give notice of the time and place for such hearing to the general public in the Charlotte and Raleigh areas of the State by publication of a notice in newspapers published in Charlotte and Raleigh, setting forth the purpose, the time and the place of such hearing. Petitioner caused notice of the purpose, time and place for hearing to be published in The Charlotte Observer and The Charlotte News, two newspapers published in the City of Charlotte, North Carolina, and having general circulation in that section of the State for two consecutive weeks under dates of November 9, 10, 16 and 17, 1966, and caused similar notice to be published in The News and Observer and The Raleigh Times, two newspapers published in the City of Raleigh and having general circulation throughout the eastern part of North Carolina, for two consecutive weeks under dates of November 8, 9, 17 and 18, 1966. Copies of the order scheduling hearing were also mailed to other bus carriers operating in North Carolina.

Within apt time Carolina Coach Company, Queen City Coach Company, Carolina Scenic Stages, Seashore Transportation Company, Southern Coach Company, City of Raleigh, Raleigh Chamber of Commerce and the Attorney General of North

Carolina, in behalf of the using and consuming public, intervened and became parties to the proceeding. Carolina Coach Company, Queen City Coach Company, Carolina Scenic Stages, Seashore Transportation Company and Southern Coach Company intervened in direct protest to the petition. The interventions of the City of Raleigh and the Raleigh Chamber of Commerce were in support of the union bus station concept but alleged the inadequacy of the present Raleigh Bus Station facilities. The Attorney General intervened in support of the union bus station concept.

When the case was called for hearing motion was offered by attorney for Queen City Coach Company and Carolina Scenic Stages that the Boards of Directors of the stations at Raleigh and Charlotte be made parties to the proceeding. Motion was allowed and they were allowed to become parties.

Attorneys for Carolina Coach Company demurred ore tenus to the petition for that same is contrary to law and the rules of the Commission. Queen City Coach Company, Carolina Scenic Stages and Seashore Transportation Company joined in the motion. The motion was denied and the maker of the motion and those who joined in the motion noted exception.

The record also indicates that State Capital Life Insurance Company filed application for intervention and was permitted to intervene. The record does not indicate through appearance slips that this intervenor was represented by counsel. However, the application for intervention is signed Attorney Arch T. Allen, and we assume, therefore, that he represented State Capital Life Insurance Company throughout the proceeding. The record also indicates that the Board of Directors of the Raleigh Union Bus Station was represented by Arch T. Allen. There is no indication as to any representation by an attorney of the Board of Directors of the Charlotte Union Bus Station.

The petitioner and the intervenors-protestants, with the possible exception of the Attorney General, offered evidence through the testimony of numerous witnesses and the identification and introduction of many exhibits. Briefs have also been filed.

After full consideration of the record evidence and the argument relating to law and fact in the several briefs the Commission now makes the following

FINDINGS OF FACT

1. Petitioner and intervenors-protestants Carolina Coach Company, Queen City Coach Company, Carolina Scenic Stages, Seashore Transportation Company and Southern Coach Company are certificated common carriers of passengers by bus in intrastate commerce in North Carolina and as such are authorized to transport passengers, baggage, mail and light express in the same bus in which passengers are being transported. Their intrastate operations are subject to the

jurisdiction of the Commission and are by Commission rule required to operate into and out of union bus stations where same are available and to use the facilities and services of such union bus stations.

The City of Raleigh is a municipal corporation, within the corporate limits of which the Raleigh Union Bus Station is situate.

The Raleigh Chamber of Commerce is a type of civic organization sponsored by the the citizenship of the City of Raleigh.

The Attorney General of North Carolina is invested through statutory power with the duty of intervening in matters affecting the public interest in connection with the operation of the Commission.

State Capital Life Insurance Company is a company engaged in writing life insurance, making business investments and is the owner of the property, land and building comprising the Raleigh Union Bus Station or terminal.

The Board of Directors of the Raleigh Union Bus Station is comprised of one member from each Carolina Coach Company, Queen City Coach Company, Greyhound Lines, Inc., Seashore Transportation Company and Southern Coach Company, which operate into and out of the Raleigh Union Bus Station, and has the duty of managing and controlling the operation of such station.

The Board of Directors of the Charlotte Union Bus Station is comprised of one member from each Carolina Coach Company, Queen City Coach Company, Carolina Scenic Stages and Greyhound Lines, Inc., which operate into and out of the Charlotte Union Bus Station, and has the control and management of the operation of such station.

2. Union passenger bus stations were provided for by the Legislature of 1925 (Chapter 50, Public Laws 1925). This provision has been brought forward in the rewriting of the statutes from time to time and is now embodied in G.S. 62-275. Under these enactments the Corporation Commission, predecessor to the present Commission, required by order in 1925 the establishment of union bus stations in North Carolina. This was done upon a finding that public convenience and necessity required the use of union bus stations where two or more carriers operate into one town or city.

3. The several carriers were required by Commission rules to construct buildings and provide facilities at points where union stations were required. In fulfillment of this requirement some of the carriers, acting alone, accepted responsibility and constructed union station buildings or provided for them at different points. Carolina Coach Company provided the facilities and station

building at Raleigh while some of those interested in Queen City Coach Company, and some other carriers formed a corporation and provided the station facilities at Charlotte. What is now Greyhound Lines, Inc., provided the facilities at Winston-Salem and Greensboro. It seems to have naturally followed that the carrier which was responsible for the construction of facilities at any point became the operator of the station, hiring and managing the personnel and being responsible for the sale of all carriers' services operating into the station and otherwise exercising control over the entire operation of the station, such operation, of course, being subject to the jurisdiction of the Commission.

4. The passenger bus business became increasingly more competitive. Competing carriers acquired operating authority over identical routes and competition increased between the competing carriers in the several union bus stations for business. It then followed that the management of these stations, being in the employ of the owner carrier or closely allied thereto, was constantly accused of selling, through its own personnel, its services in preference to the services of its competitors. This resulted in many instances in inconveniences and disadvantage to passengers in that they were at times sold the services of the carrier who had the management of the station when other services would have been more convenient and advantageous. The Commission, although having jurisdiction over the operation of the station and although it held numerous hearings on complaints about these situations, was not able to adequately eliminate under its existing rules these mistreatments of the traveling public.

5. In an effort to protect the traveling public's interest and welfare the Commission promulgated a rule which would have permitted carriers desiring to sell their own services authority to establish separate ticket offices in the union station for the sale of their services. Petitioner actually established ticket offices at some points outside the union bus stations for the sale of interstate services, which act was sustained by the Supreme Court of North Carolina over the objection and protest of other carriers operating into the union bus stations at those points.

6. Some of the protesting carriers succeeded in obtaining legislative action amending G.S. 62-275 so as to deny any carrier the right to sell its own services and furnish its own information about its services at separate facilities in a union bus station except that every carrier operating into the union bus station at that point consented and agreed to such action and then it be approved by the Commission, resulting in the legislative destruction of the rule promulgated by the Commission. The Commission requested the 1967 Legislature to repeal or eliminate this amendment from G.S. 62-275. The act supported by the Commission was protested and fought by the same carriers who

had sought its enactment in the first instance resulting in its defeat.

7. In an effort to secure for the traveling public adequate, efficient, convenient and necessary services at union bus station terminals the Commission, by order issued in April of 1965, required the establishment of Boards of Directors at nine separate union bus stations, of which Charlotte is one, for the management and operation of such station. The establishment of such Boards of Directors was required after many complaints of abuse, misinformation and other ill treatment had been received from members of the traveling public and after full hearing on such complaints. The Boards of Directors are comprised of carrier members from each of the several carriers operating into the station, and the management of such stations under Boards of Directors has not resulted in the elimination of the situations complained of. The Board of Directors at the Raleigh Union Bus Station was formed by agreement of the carriers operating into such station with the approval of the Commission.

8. The use of common carrier passenger bus service in North Carolina has increased in the last several years, both as to passengers and express. This is particularly true as to express, and the percentage of the gross revenue of the several carriers from express has increased from about 3-5 percent five years ago to as much as 20-30 percent as of the present time.

9. The union station building and facilities at Raleigh and at Charlotte are inadequate to meet adequately, conveniently and satisfactorily the needs of the traveling public which the common carriers of passengers by bus serve.

10. The lands upon which the union station buildings at Raleigh and at Charlotte are situate are not sufficient in quantity and size to permit the construction of adequate and efficient station buildings and facilities at these points to meet and accommodate the needs of the traveling public.

11. There is urgent need for more adequate and efficient station facilities to meet the public convenience and necessity of the traveling public at both Raleigh, North Carolina, and Charlotte, North Carolina.

12. The carriers operating into and out of the Raleigh Union Bus Station and the Charlotte Union Bus Station have not come forth with nor have they proposed any plan for enlarging, improving, increasing the capacity of or making the stations at Charlotte and Raleigh adequate to meet the public need and convenience.

CONCLUSIONS

For a great many years the Commission has adhered to the policy of union passenger bus stations and required where

two or more carriers operate into the same city or town they use union bus station facilities. Primarily this requirement has been based on the reason that it is more convenient for a member of the traveling public having to change buses to do so at one station rather than to have to come into one station and then transfer to another station for the outgoing bus. North Carolina is the only State in the Union that actually requires union passenger bus station facilities. There are some points throughout the country where there is joint use by carriers of passenger bus facilities and services. In these instances the operation of the bus station and facilities is a matter of contract between the using carriers.

The matter before us is not one to necessarily disavow and destroy the union passenger bus station concept but rather to permit one of the several carriers operating into the Raleigh Union Passenger Bus Station, that same carrier being one of the four major carriers operating into the Charlotte Union Passenger Bus Station, to withdraw from the Charlotte and Raleigh Union Bus Stations and to own, construct and operate its own passenger bus station and facilities in Raleigh and Charlotte independently of the Union Passenger Bus Stations at these points.

The passenger bus station facilities, including the station building in Charlotte and in Raleigh, were constructed a number of years ago. While there has been some additional space made available in some instances in these buildings by rearranging the walls and combining certain facilities, each of the stations is outmoded, is not in keeping with modern needs and does not adequately meet the requirements of the traveling public. There is an inadequacy of loading and unloading spaces. At times passengers are unloaded some distance away from the loading and unloading docks. Buses are required to wait for an opportunity to get into the station facilities in order to unload. On occasions buses coming into the Charlotte Station have been required to drive around a city block or more while waiting an opportunity to get into the station to unload its passengers. On occasions buses are parked on Morgan Street in front of the Raleigh Union Bus Station for the loading and unloading of passengers. Here, also, the loading and unloading docks are inadequate and insufficient making it necessary at times to load and unload passengers without the bus coming into the loading dock and in the line of travel where other buses move in and out.

The inability of a carrier to sell its own services and give out information about its schedules and the service it renders has been a bone of contention in the union bus station operation for a long time. The Commission has exerted much effort to solve this problem in the interest of retaining union passenger bus stations. It has at all times been faced with the fact that the carrier conducting the station operation, or the carrier having the controlling vote on the Board of Directors, controls the sale of all

services at the station and, therefore, sells the services of its competitor. The establishment of the Boards of Directors was designed to alleviate this controversy but it has failed to do so. The majority of the carriers consistently insist that all services sold in the union bus station shall be sold through one sales service. This, of course, denies the carrier who does not have the direct control of station operations the right to sell its own service and give out its own information. No matter how much the carrier may advertise its services and no matter how much effort it may go to in order to provide service to the public it can serve the public only to the extent its services are sold. Except that sales of service at a union bus station are fair and impartial, then the carrier which has no direct control over such sales is not in position to compete with the carrier who controls the sale. The establishment of Boards of Directors failed to alleviate the situation existing with respect to the sale of services in the union bus stations. The legislature practically destroyed any opportunity this Commission had to bring about impartiality in the sale of services in the union bus stations. It can well be disastrous to a competing carrier for its competitor to sell all the services. To require a carrier to conduct its operations into and out of a union bus station where its services are sold by its competitors and deny it the right to have the opportunity to sell its own services and give out its own information in such station for all practical purposes destroys its right to existence and to pursue its efforts to serve the public.

We note with interest that one building in many instances houses the sales service of several air carriers. Each of the air carriers has its own ticket sales and baggage facilities in a separate part of the building. Yet all use the same spaces for loading and unloading. Each, however, has its own baggage facilities. It is not readily understandable just why some of the carriers oppose so strongly the right of a competing carrier to sell its own services and furnish its own information in the station building. One of the most crucial things in this connection arises out of the fact that in so many instances the carrier controlling the sale of services in the union bus station has not properly and adequately informed the traveling public as to the most convenient service to use in connection with travel. In some instances the traveling public has been woefully mislead and has received information very detrimental to their best interest.

The Commission has felt for some time that the carriers operating into and out of the Raleigh Station and the Charlotte Station, which are two of the larger and more profitable station operations in the State, would reach some joint agreement for the construction of adequate buildings, structures and facilities at these two points which would enable any carrier to install and operate its own service sales and information bureau, including the handling of its passengers' baggage and express shipments in the same

building. Carriers not desiring to install and use their own separate sales and information service might well contract with other carrier or carriers for the sale of their services, and the entire operations at that point might well be conducted in the one building and passengers would not find it necessary to move from one station building to another in order to change from one line to another. For reasons best known only to the carriers this has not been done. The carriers have not approached this Commission with any proposal of that kind. The majority of the carriers operating into the two stations here involved seem to be content under legislative authority to require petitioner to continue to use the services offered at the union bus stations for the sale of its services and the furnishing of its information without any regard to the ultimate effect on petitioner's operation.

The Commission has afforded the carriers ample opportunity to come forward with proposals to provide adequate station facilities at both Charlotte and Raleigh. Each of the carriers is fully advertent to existing conditions. The Commission is firmly of the opinion that these conditions should be remedied. The petitioner requests that it be permitted to construct its own station facilities and operate its own station separate and apart from the Union Station. The other carriers simply adhere to the fact that no change should be made, that the petitioner, regardless of the ill effect present manner of operations may have upon it, should be required to continue operating under those conditions and handicaps and that the public is receiving all the service to which it is entitled.

We conclude that the construction by petitioner of its bus station building and facilities, under the supervision of the Commission, at Raleigh and at Charlotte will be in the public interest and will provide for more adequate and efficient service to the traveling public. We conclude further that upon the completion of the construction of its separate bus station building and facilities in Charlotte and Raleigh that the petitioner should be authorized to withdraw from the Union Bus Stations in Raleigh and Charlotte.

The petitioner shall submit to the Commission for its approval information concerning site location, design of buildings, quality of material, overall size of property, parking availability and anticipated date of occupancy. No purchase shall be consummated or construction commenced until approval has been received from the Commission.

IT IS, THEREFORE, ORDERED that the petitioner, Southern Greyhound Lines of Greyhound Lines, Inc., be and it is hereby authorized to establish in the City of Raleigh, North Carolina, and in the City of Charlotte, North Carolina, its separate passenger depot or station and station facilities to use in its passenger transportation operation in North Carolina.

IT IS FURTHER ORDERED that the petitioner submit to the Commission for its approval a map showing the location and size of the property it proposes to acquire for the construction of station buildings and facilities and not enter into any contract for such acquisition until the location has been approved by the Commission. It will also submit to the Commission for approval plans and specifications showing the design and size of structures to be erected and shall not begin any construction until approval has been obtained from the Commission. Such plans and design must provide available runways, loading and unloading docks and reasonable parking space, all of which must have Commission approval.

IT IS FURTHER ORDERED that petitioner, within 60 days from date of this order, shall report to the Commission progress made in this connection and shall thereafter report progress at 60-day intervals.

IT IS FURTHER ORDERED that upon the completion of the facilities of the bus station at Raleigh and at Charlotte petitioner be and it is permitted to withdraw from the Union Bus Station at each of these points.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-7, SUB 81
Southern Greyhound Lines of Greyhound Lines, Inc.

BLLER AND McDEVITT, COMMISSIONERS, CONCURRING: There are great opportunities and challenges in this order for the motor passenger carriers and the two cities involved. Neither the law nor this order prevents the carriers from now compromising their long differences and constructing joint (although not "union" in the technical sense) terminals in Raleigh and Charlotte rather than wastefully duplicating each other with two small stations unworthy of these cities.

There is no reason apparent to us why these carriers, working in a cooperative spirit, cannot build a single terminal complex in each city with common trackage, waiting and rest areas, and parking facilities. Such a facility would permit substantial economies for the carriers without sacrificing their autonomy. Obviously, it would convenience the traveling public and become the cities far more than two entirely separate, and possibly distant, facilities of lower grade. There is a place in such an objective for participation by the municipal governments of the two cities.

Without hesitancy, we volunteer the Utilities Commission's cooperation with the carriers and the respective governing councils in realizing the kind of terminal facilities we envision as possible under this order.

Thomas R. Eller, Jr., Commissioner
John W. McDevitt, Commissioner

DOCKET NO. B-7, SUB 81

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition of Southern Greyhound Lines of Greyhound Lines, Inc., to establish separate passenger depot or station facilities at Charlotte, North Carolina, and Raleigh, North Carolina	))))	ORDER CORRECTING STATEMENT OF PARTIES

BY THE COMMISSION: Upon request in writing received by the Commission on September 27, 1967, in the above docket from Mr. Arch T. Allen as attorney for State Capital Life Insurance Company, to correct the list of appearances and statement of parties in the final order entered herein on August 25, 1967, to show the appearance of Arch T. Allen, Allen, Steed and Pullen, Attorneys at Law, as attorneys of record for Intervenor State Capital Life Insurance Company, and to delete the reference to the appearances for parties appearing in the first full paragraph on page 4 of said order, and the Commission having examined the record and the pleadings in the proceeding and being satisfied that said correction should be made, and having notified all parties of said proposed correction by letter of October 10, 1967, and there being no objection by any party to said notice of proposed correction,

IT IS, THEREFORE, ORDERED That the list of appearances beginning on page one of the final order herein, entered on August 25, 1967, is hereby corrected to show the appearance of Arch T. Allen, Allen, Steed and Pullen, Attorneys at Law, P.O. Box 2058, Raleigh, North Carolina, as attorneys of record for State Capital Life Insurance Company, Intervenor herein, and the reference to representation of parties is hereby corrected by deleting the first full paragraph on page 4 of said order.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of October, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-275, SUB 26

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Union Bus Station - Laurinburg, North Carolina) ORDER APPROVING BUS STATION PLANS

BY THE COMMISSION: This proceeding is before the Commission on an Order to Show Cause issued December 8, 1966, directed to the respondents Greyhound Lines, Inc., and Queen City Coach Company to show cause why adequate union bus station facilities should not be furnished in the City of Laurinburg, N.C. The Show Cause Order was heard in the Commission's Hearing Room in Raleigh, N.C., on February 7, 1967, and on March 9, 1967, the Commission entered an Order directing the respondents to submit plans to the Commission for its approval for a union bus station and premises to serve the City of Laurinburg. By subsequent Order of May 17, 1967, time was extended to file such plans not later than September 1, 1967, for approval by the Commission.

On August 25, 1967, the respondents filed with the Commission pursuant to said Order a report and plans for a new union bus terminal to be located on a lot extending between South Main Street and Biggs Street in the City of Laurinburg. The map, floor plans and elevations are accompanied by specifications prepared by George Gillette, Jr., Registered Engineer, Laurinburg, N.C., dated August 8, 1967, showing that the proposed construction is for D.W. Odom and W.N. Robertson, owners of the land on which the station is to be constructed. Attached to said report of the respondents as Exhibit A is a copy of the written proposal of said D.W. Odom and W.N. Robertson to the respondent Southern Greyhound Lines to construct said new bus station and lease it to the respondent carriers as joint lessees for a period of six years with an option to renew for an additional four years. The report states that co-owner D.W. Odom further proposes to lease back the new station from the carriers and to operate the station as a union station under an agency agreement with both carriers.

The report of the respondents further has attached as Exhibit C a statement from the Chairman of the Bus Station Committee of the Laurinburg Chamber of Commerce, Inc., intervenor herein, advising the Commission that the proposed plans and proposed location will meet the needs of the community of Laurinburg.

The Commission Staff has investigated the location and has met with representatives of the community organizations and the city government and has reported to the Commission that the proposed bus station plans and the proposed location of the bus station are sufficient to furnish reasonable bus station facilities for the public in Laurinburg, N.C., provided the approval is conditioned to include additional

ladies' rest room facilities, which the respondents have agreed to accept.

Upon consideration of the plans and specifications as submitted by the respondents with the report of respondents filed on August 25, 1967, and the attached proposals of the owners and the statement of the Laurinburg Chamber of Commerce, together with the investigation of the Commission Staff, the Commission finds that the plans are reasonable and satisfactory to comply with the requirements of the Commission Order entered herein on March 9, 1967, provided an additional toilet is installed in the ladies' rest room.

NOW, THEREFORE, IT IS ORDERED That the report of the respondents filed on August 25, 1967, with attachments, Exhibit A, letter proposal of the property owners, dated August 11, 1967, Exhibit B, plans and specifications of the bus station building, and Exhibit C, letter of approval of the intervenor Laurinburg Chamber of Commerce, Inc., are hereby approved subject to the amendment of said plans to include additional ladies' rest room facilities as agreed to.

IT IS FURTHER ORDERED that the respondents shall report to the Commission each thirty days hereafter in writing showing the progress made upon the construction of said bus station building, including any necessary rezoning of the property involved, the letting of bids by the owners, progress reports of the construction of the station building, and final completion of the bus station building and acceptance by the respondent carriers as lessees from the owners, and the occupancy of the building by the sublessee D.W. Odom as agent of both respondent carriers and the full operation of said bus station as a union bus terminal in Laurinburg, N.C.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-1077, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
American Courier Corporation -) ORDER APPROVING
Application for approval of change) CHANGE OF CONTROL
of control through stock transfer) THROUGH STOCK TRANSFER

By joint application filed with the Commission on June 27, 1967, Pyrate Sales, Inc., and Arthur DeBevoise, as Transferors, and Purolator Products, Inc., a Delaware Corporation, 970 New Brunswick Avenue, Rahway, New Jersey,

as Transferee, seek approval of the change of control of American Courier Corporation, a New York Corporation, through the transfer of all of the stock of said corporation from said Transferors to said Transferee.

Applicants represent that Transferors are the owners of all of the issued and outstanding shares of the capital stock of American Courier Corporation; that Transferee, Purolator Products, Inc., is not engaged in transportation activities and that the transfer of stock contemplated by said application will not result in the joint or common control of two or more carriers; that the only matter sought in said application is approval of the sale of capital stock of American Courier Corporation to Purolator Products, Inc., and that there will be no change in the corporate identity, existence or operations of American Courier Corporation.

It further appears from said application that the proposed change of control will not result in any change in the management, service, and operations of American Courier Corporation, nor affect the operations and service of any other motor carrier.

Upon consideration thereof, the Commission is of the opinion and finds that the change of control of American Courier Corporation from Transferor to Transferee through stock transfer is justified by the public convenience and necessity as contemplated under G.S. 62-111(a) and that the application should be approved.

IT IS, THEREFORE, ORDERED That the change of control of American Courier Corporation through the sale and transfer of all of the issued and outstanding shares of capital stock of said corporation from Pyrate Sales, Inc., and Arthur DeBevoise to Purolator Products, Inc., be, and the same is, hereby approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of July, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-273, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Billings Transfer Corporation, Inc. - Petition for approval of transfer of control through stock transfer	))) ORDER APPROVING) STOCK TRANSFER

By application filed with the Commission on October 28, 1966, approval is sought for the transfer of a majority of

the capital stock of Billings Transfer Corporation, Inc., from Homer S. Billings, Lexington, North Carolina (Transferor), to Vanmar, Inc., Lexington, North Carolina (Transferee).

The Calendar of Hearings issued on November 1, 1966, in which notice of said application and date of hearing was published, carried the following notation:

"If no protests are filed by 5:00 p.m., Thursday, December 15, 1966, this case will be decided on the basis of the application, the documentary evidence attached thereto and the records of the Commission pertaining thereto, and no hearing will be held."

No protests or motions to intervene were received and, therefore, this matter was decided on the verified pleadings and relevant records.

It appears from the application and exhibits attached thereto that parties seek approval of the transfer of two hundred ninety (290) shares of common capital stock of Billings Transfer Corporation, Inc., a common carrier of property holding Certificate No. C-94, heretofore issued by this Commission; that Billings Transfer Corporation, Inc., has issued and outstanding five hundred (500) common shares and the two hundred ninety (290) shares to be transferred equals fifty-eight percent (58%) of the stock of said carrier; and that said transfer constitutes a transfer of control of said carrier. It appears further that Transferee, Vanmar, Inc., is a North Carolina Corporation and that the principal managing officers are Eric E. Morgan, President; Robert Philpott, Vice President; R.E. Fitzgerald, Jr., Secretary; and Don Leonard, Treasurer, all of Lexington, North Carolina; that Eric E. Morgan, who is President of the transferee corporation, will be President of Billings Transfer Corporation, Inc.; that said Eric E. Morgan has a first hand knowledge of the trucking business and is a competent executive with many years experience; that, in addition, Irvin W. Albert, who has been with Billings Transfer Corporation, Inc., for fifteen (15) years, will remain with them and be elevated to the position of Executive Vice President.

The application shows that the total consideration involved in the proposed transaction is $600,000; that Billings Transfer Corporation, Inc., also holds authority from the Interstate Commerce Commission and that no attempt has been made to assign a specific value to either the intrastate or interstate certificates.

Upon consideration thereof, the Commission is of the opinion and finds that the change of control through stock transfer is justified by the public convenience and necessity as contemplated under G.S. 62-111(a) and that the application should be approved.

IT IS, THEREFORE, ORDERED That the change of control of Billings Transfer Corporation, Inc., through the sale and transfer of two hundred ninety (290) shares of the issued and outstanding common capital stock of said corporation from Homer S. Billings to Vanmar, Inc., be, and the same is, hereby approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-68, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Citizen Express, Inc., of Asheville, N.C., for Approval of Change of Control Through Merger of Parent Corporation Asheville-Citizen Times Publishing Company and Other Corporations into Multimedia, Inc., Greenville, S.C.	) ORDER APPROVING) CHANGE OF) CONTROL THROUGH) MERGER OF) PARENT) CORPORATION

BY THE COMMISSION: This cause comes before the Commission upon the application of Citizen Express, Inc., filed on November 2, 1967, for approval of change of control of the applicant by the merger of its parent corporation, The Asheville Citizen-Times Publishing Company of Asheville, N.C. (hereafter called Citizen-Times) with Southeastern Broadcasting Corporation, Greenville, S.C. (hereafter called Southeastern Broadcasting) and Greenville News-Piedmont Co., Greenville, S.C. (hereafter called Greenville News) into a resulting corporation with the name of Multimedia, Inc., to be in Greenville, S.C. (hereafter called Multimedia).

Based upon verified representations contained in the application and the exhibits attached thereto and upon examination of the Annual Report of Citizen Express, the Commission makes the following

FINDINGS OF FACT

1. That the applicant Citizen Express is a duly organized and existing corporation under the laws of the State of North Carolina with its principal office in Asheville, N.C., and holds authority from the Utilities Commission to operate as a motor common carrier of property under Certificate No. C-129 under the general classification of a motion picture film and special carrier service with the authority as set out in said Certificate No. C-129.

2. That applicant is the wholly-owned subsidiary of Citizen-Times, and the Commission has at all times been notified of said ownership of the stock of Citizen Express by Citizen-Times. Citizen Express presently owns and operates 24 vehicles, consisting of 19 van type trucks, 1 tractor, 1 trailer and 3 metro-type trucks. It maintains frequent schedules over various highways throughout its franchised territory and from its Annual Reports it is shown to be a substantial motor carrier which renders valuable service to the public, and ownership of its stock by Citizen-Times has not adversely affected its service to the public.

3. Citizen-Times is not a regulated utility and is engaged primarily in the newspaper publishing and broadcasting business, and in the course of said business it has entered into agreements with Greenville News and Southeastern Broadcasting to merge said three companies engaged primarily in the publishing and broadcasting business into a resulting corporation with the name of Multimedia, Inc. None of the merging corporations are engaged in the public utility business, and the merger of Citizen-Times into Multimedia, Inc., will not change the general nature of the control of Citizen Express in the sense that the parent corporation will continue to be engaged in the unrelated business of newspaper publishing and broadcasting. Citizen Express will not be a party to the merger agreement, and the only effect of the merger will be to change the ownership of the stock of Citizen Express from the present ownership by Citizen-Times to the proposed ownership by Multimedia, Inc., of which Citizen-Times will become a part.

CONCLUSIONS OF LAW

The 1963 Public Utilities Act applies the following standard to any stock transfer which might result in a transfer of control of a franchise in North Carolina:

"G.S. 62-111. Transfers of franchises; mergers, consolidations and combinations of public utilities. - (a) No franchise now existing or hereafter issued under the provisions of this chapter other than a franchise for motor carriers of passengers shall be sold, assigned, pledged or transferred, nor shall control thereof be changed through stock transfer or otherwise, or any rights thereunder leased, nor shall any merger or combination affecting any public utility be made through acquisition or control by stock purchase or otherwise, except after application to and written approval by the Commission, which approval shall be given if justified by the public convenience and necessity. Provided, that the above provisions shall not apply to regular trading in listed securities on recognized markets."

This section provides that the Commission shall approve the change of control of a public utility if justified by

the public convenience and necessity. The ownership of shares of Citizen Express by its parent corporation is a matter of private property law except to the extent that it is affected by the public interest as a public utility, and unless some cause is shown therefor the merger of the parent corporation with other corporations in similar business should not be enjoined. The Commission's investigation into this application discloses no grounds for denying the application and discloses no way in which the public interest of the shipping and using public in North Carolina will be materially or adversely affected. The rates and service of the applicant Citizen Express will remain the same as they are prior to this application for change of control. The corporate structure of the applicant Citizen Express will remain the same and its assets and financial ability will remain the same. Based upon the application and the investigation of the Commission, the Commission is of the opinion and so concludes that the public convenience and necessity will not be adversely affected by the change of control of the stock of the applicant Citizen Express and that, therefore, the same meets the test prescribed by G.S. 62-111 hereinabove quoted.

IT IS, THEREFORE, ORDERED as follows:

1. That the application for approval of change of control of the stock of the applicant Citizen Express by the merger of its parent corporation Citizen-Times into Multimedia, Inc., be and the same is hereby approved subject to compliance with all provisions of the North Carolina private corporate law.

2. That upon consummation of the merger of Citizen-Times into Multimedia, Inc., the parties shall promptly confirm in writing to the Commission the date on which the consummation has actually taken place.

3. That no contracts for compensation for services from the new parent corporation Multimedia, Inc., to the subsidiary Citizen Express shall be valid nor any compensation be paid by Citizen Express to Multimedia, Inc., for services until a contract or agreement for such services is filed with the Commission for approval under the provisions of G.S. 62-153.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-676, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for Approval of Acquisition of All of the Outstanding Capital Stock and Control of Carolina-Norfolk Truck Line, Inc., by Estes Express Lines	) ORDER APPROVING) STOCK TRANSFER

This cause comes before the Commission upon a joint application of Carolina-Norfolk Truck Line, Inc., and Estes Express Lines (Petitioners), filed under date of May 1, 1967, through their Counsel, Allen, Steed and Pullen, Raleigh, North Carolina, wherein authority of the Commission is sought as follows:

1. Acquisition of all of the outstanding capital stock and control of Carolina-Norfolk Truck Line, Inc., by Estes Express Lines; and

2. The issuance by Estes Express Lines of promissory notes covering the balance of the purchase price.

PETITIONER, Carolina-Norfolk Truck Line, Inc., hereafter called "Carolina-Norfolk", is a Virginia Corporation of Norfolk, Virginia, and is the holder of North Carolina intrastate Common Carrier Certificate No. C-577.

PETITIONER, Estes Express Lines, hereafter called "Estes", is a Virginia corporation of Richmond, Virginia, and is the holder of North Carolina intrastate Common Carrier Certificate No. C-59.

PETITIONERS are seeking approval by the appropriate regulatory agencies for Estes to acquire all of the outstanding capital stock and control of Carolina-Norfolk pursuant to the terms and provisions of a certain Agreement dated February 8, 1967, a copy of which is Exhibit A attached to the application in the proceeding.

PETITIONERS represent that at September 30, 1966, the total outstanding capital stock of Carolina-Norfolk consisted of 142 shares of common stock with a par value of $100 per share. It is further represented that the purchase price for all of said 142 shares shall be $1,000,000, $7,042.25 per share, based on the book net worth of the company of $507,778.44 as reflected in the balance sheet at September 30, 1966. It is further represented that the purchase price shall be subject to adjustment following a certified audit of the books and records of Carolina-Norfolk as of the closing date, all as described more fully in said Agreement.

PETITIONERS further represent that on the closing date Estes will deliver to a representative of the stockholders of Carolina-Norfolk an initial cash payment and installment

promissory notes for the balance of the purchase price of said stock with the promissory notes to be paid off in monthly installments including interest at the rate of 6% per annum on the unpaid balance.

PETITIONERS further represent that the operations of Estes are complimentary to those of Carolina-Norfolk and the joint control of the two companies will permit the prompt arrest of operating losses of Carolina-Norfolk, rehabilitation and improvement in the transportation services provided by Carolina-Norfolk and reasonably assure continued employment security and opportunities for Carolina-Norfolk employees.

From a review and study of the application, its supporting data and other information contained in the Commission's files, the Commission is of the opinion and so finds that the transaction herein proposed is:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service;

(d) Reasonably necessary and appropriate for such purposes;

THEREFORE, IT IS ORDERED That the Petitioners be, and they are, hereby authorized, empowered and permitted under the terms and conditions set forth in the application as follows:

1. Estes may acquire control of Carolina-Norfolk through purchase of all of its outstanding capital stock for the purchase price of $1,000,000 to be adjusted for changes in net book worth on date of sale; and

2. Estes may issue its promissory notes as evidence of its indebtedness to the stockholders of Carolina-Norfolk for a portion of the purchase price of said stock.

IT IS FURTHER ORDERED That Estes within a period of thirty (30) days following the completion of the transaction authorized herein shall file with this Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-165, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
R.D. Fowler Motor Lines, Inc. -	) ORDER APPROVING
Application for approval of	) CHANGE OF CONTROL
change of control through stock	) THROUGH STOCK TRANSFER
transfer	)

By joint application filed with the Commission on March 29, 1967, R.D. Fowler, Sr.; Mary Irene Fowler, Administratrix of the Estate of P.D. Fowler, Jr., deceased; Walter R. Fowler and Margaret F. Kirkman, as transferors, and George L. Hundley and Boyd C. Royal, as transferees, seek approval of the sale and transfer of all of the capital stock of R.D. Fowler Motor Lines, Inc., from said transferors to said transferees.

It appears from the application and the sales contract attached thereto that transferors were the owners of all of the issued and outstanding shares of capital stock of R.D. Fowler Motor Lines, Inc.; that transferors entered into a contract with transferees under the terms of which transferors agreed and did sell and convey to transferees all of their capital stock in R.D. Fowler Motor Lines, Inc.; that transferees agreed to purchase from transferors all of their capital stock and that the agreed price for said shares of stock was $300,000 payable under the terms of the contract.

It appears further that the sale and transfer of said stock was consummated on October 1, 1966, and that said stock is now owned by transferees as follows:

George L. Hundley, Thomasville, N.C.,	180 shares
Boyd C. Royal, Greensboro, N.C.,	20 shares
TOTAL - - - - - - - - - - - - - - - -	200 shares

and that said 200 shares constitute all of the capital stock that is now issued and outstanding.

It further appears that by special meeting of the stockholders of R.D. Fowler Motor Lines, Inc., George L. Hundley, Robert S. Foster and Boyd C. Royal were duly elected as the Board of Directors of said corporation, and that immediately thereafter, at a special meeting of the Board of Directors, Boyd C. Royal was elected President, P.V. Kirkman, Vice President, Robert S. Foster, Secretary, and Glenn Doby, Treasurer, and that they are presently

acting as such officers. Applicants further represent that Boyd C. Royal, the newly elected President of the corporation, has had some thirty (30) years' experience in the transportation business, including some eighteen (18) years as Secretary and participant in the active management of S. & W. Motor lines, Inc., from its beginning 1949 until joining R.D. Fowler Motor Lines, Inc., on September 1, 1966.

It further appears that the agreement of purchase and sale was entered into on September 1, 1966; that transferees were given until October 1, 1966, to audit the books of the corporation and satisfy themselves that the corporation's assets, operations, etc., were as represented and that on September 29, 1966, an amended agreement was entered into reflecting a decrease in the purchase price theretofore agreed upon caused by an increase in liabilities. A copy of the purchase and sale agreement, together with the amended purchase and sale agreement, is attached to the application.

Upon consideration thereof, the Commission is of the opinion and finds that the proposed change of control of R.D. Fowler Motor Lines, Inc., through stock transfer is justified by the public convenience and necessity as contemplated under G.S. 62-111(a) and that the application should be approved.

IT IS, THEREFORE, ORDERED That the change of control of R.D. Fowler Motor Lines, Inc., through the sale and transfer of all the issued and outstanding shares of capital stock of said corporation from R.D. Fowler, Sr.; Mary Irene Fowler, Administratrix of the Estate of R.D. Fowler, Jr., deceased; Walter R. Fowler and Margaret F. Kirkman, to Boyd C. Royal and George L. Hundley, under the terms of the purchase and sale agreement attached to the application, be, and the same is, hereby approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-80, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Gastonia Motor Express, Inc. -Petition for approval of transfer of control through stock transfer) RECOMMENDED ORDER

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on August 22, 1967, at 2:00 p.m.

BEFORE: E.A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

Francis O. Clarkson, Jr., and
Hugh B. Campbell, Jr.
Craighill, Rendleman & Clarkson
Attorneys at Law
914 American Building
Charlotte, North Carolina 28202

No Protestants.

HUGHES, EXAMINER: By petition filed with the Commission on June 30, 1967, approval is sought for the transfer of all of the outstanding capital stock of Gastonia Motor Express, Inc., from T.S. Johnson (Transferor), to David F. Lloyd (Transferee).

Notice of the application, together with a description of the operating authority held by Gastonia Motor Express, Inc., along with the time and place of the hearing was published in the Commission's Calendar of Hearings issued July 5, 1967. No written protest to the application was filed with the Commission and no one appeared at the hearing in opposition thereto.

It appears from the petition, exhibits attached thereto, and the testimony of record that Transferor has agreed to sell, assign and convey unto Transferee all of the issued and outstanding capital stock of Gastonia Motor Express, Inc., for and in consideration of the sum of $26,881.68. A copy of said agreement is attached to the petition. The petition shows the net worth of Transferee to be $70,926.01 and represents that Transferee is twenty-seven (27) years old and has had at least three (3) years' experience in motor carrier operations, such experience varying from that as dispatcher to General Manager and Regional Sales Manager of motor carriers of general commodities and/or specific commodities.

It further appears from the testimony of record that Transferee has moved his place of residence to the Charlotte area and will devote his full time to the management and operation of the corporation for which control is sought in this proceeding; that he will conduct the operations of Gastonia Motor Express, Inc., in the best interest of the public and will at all times operate the same in full compliance with the laws and regulations of the State of North Carolina and this Commission.

It further appears from the testimony of Transferee that he does not at the present time own any interest, directly or otherwise, in any other carrier.

It further appears that in the event the petition herein is approved, the petitioner desires to change the name of the Corporation to "Lloyd Motor Express, Ltd.," and that if said approval is given, such name change will be effected through the Secretary of State of North Carolina.

Based upon the application, the documentary evidence attached thereto and the testimony of record, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That T.S. Johnson is the owner of all of the issued and outstanding capital stock of Gastonia Motor Express, Inc., and has entered into a written agreement to sell, assign and convey all of such stock unto Transferee.

2. That Transferee, David F. Lloyd, does not own any interest, directly or otherwise, in any other motor carrier and that said Transferee is solvent and fully qualified, financially and by experience, to assume ownership and control of Gastonia Motor Express, Inc., and render adequate service on a continuing basis.

CONCLUSIONS

Based upon the petition, the evidence of record and the foregoing findings of fact, the Hearing Examiner concludes that the petitioner has sustained the required burden of proof and that the change of control of Gastonia Motor Express, Inc., through stock transfer is justified by the public convenience and necessity as contemplated under G.S. 62-111(a) and that the petition should be approved, including the change of corporate name.

IT IS, THEREFORE, ORDERED That the change of control of Gastonia Motor Express, Inc., through the sale and transfer of all of the issued and outstanding shares of capital stock of said corporation from T.S. Johnson, to David F. Lloyd, Suite 914, 201 South Tryon Street, Charlotte, North Carolina, be, and the same is, hereby approved, effective thirty (30) days from the date that this order becomes final.

IT IS FURTHER ORDERED That upon receipt of certified copy of amendment to Corporate Charter of Gastonia Motor Express, Inc., changing its corporate name, the records of the Commission will be amended accordingly.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-45, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Wall Trucking Company, Inc. - Petition)
for approval of all of the capital stock) ORDER APPROVING
of Wall Trucking Company, Inc., from) STOCK TRANSFER
Grafton G. Burgess to W. Ray Fowler)

By joint petition filed with the Commission on January 30, 1967, Grafton G. Burgess, as Transferor, and W. Ray Fowler, as Transferee, seek approval of the sale and transfer of all of the capital stock of Wall Trucking Company, Inc., a North Carolina corporation, from said transferor to said transferee.

It appears from the petition and the sales contract attached thereto that transferor is the owner of all the issued and outstanding shares of capital stock of Wall Trucking Company; that transferor has entered into a contract with transferee under the terms of which transferor agrees to sell and convey to transferee all of his shares of capital stock in Wall Trucking Company; that transferee has agreed to purchase from transferor all of his capital stock and that the agreed price for said shares of stock is $55,000 payable under the terms of the contract.

Petitioners further represent that transferee, W. Ray Fowler, has had extensive prior experience in the trucking business and has at previous times in the past operated trucking companies and has also had various types of business experience; that said W. Ray Fowler holds no franchise at the present time, nor does he own any stock or interest of any nature whatsoever in any other trucking company; that said W. Ray Fowler is qualified to take over the management of Wall Trucking Company, Inc., and to continue it as a profitable and satisfactory operation in compliance with all the rules and regulations of the North Carolina Utilities Commission.

It further appears from the petition that at the time of the transfer of said stock from said transferor to said transferee the said corporation shall be free and clear of any encumbrances, obligations and liabilities.

Upon consideration thereof, the Commission is of the opinion and finds that the change of control of Wall Trucking Company, Inc., through stock transfer is justified by the public convenience and necessity as contemplated under G.S. 62-111(a) and that the petition should be approved.

IT IS, THEREFORE, ORDERED That the change of control of Wall Trucking Company, Inc., through the sale and transfer of all of the issued and outstanding shares of capital stock of said corporation from Grafton G. Burgess to W. Ray

Fowler, under the terms of the contract attached to the petition, be, and the same is, hereby approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-139, SUB 12

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of M & M Tank Lines, Inc., P.O. Box 4174, North Station, Winston-Salem, North Carolina, for authority to transport Group 21, asphalt and asphalt products, liquid, in bulk in tank trucks from Morehead City and Swannanoa, North Carolina, to points and places in North Carolina, and return of refused or rejected shipments	ORDER DENYING APPLICATION

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on June 22, 1967

BEFORE: Commissioners Thomas P. Eller, Jr., Clarence H. Noah, and John W. McDevitt (presiding)

APPEARANCES:

For the Applicant:

J. Ruffin Bailey, and
Wright T. Dixon, Jr.
Bailey, Dixon & Wooten
Attorneys at Law
Insurance Building
Raleigh, North Carolina

For the Protestants:

Thomas W. Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P.O. Box 2058, Raleigh, North Carolina
For: Carolina Asphalt & Petroleum Company
Eastern Oil Transport, Inc.
J.B. Honeycutt, Inc.
Petroleum Transit Company, Incorporated
Petroleum Transportation, Inc.
Service Transportation Corporation
Southern Oil Transportation Company, Inc.
Terminal City Transport, Inc.
A.C. Widenhouse, Inc.

L.A. Odom
Attorney at Law
120 Walnut Street
Spartanburg, South Carolina 29301
For: Associated Petroleum Carriers

McDEVITT, COMMISSIONER: M & M Tank Lines, Inc. (Applicant), filed application on March 22, 1967, for authority to transport Group 21, asphalt and asphalt products, liquid, in bulk in tank trucks, from Morehead City and Swannanoa, North Carolina, to points and places in North Carolina, and return of refused or rejected shipments. Public hearing was scheduled and held on June 22, 1967. The Applicant and Protestants were present and represented by counsel.

Protests were filed on April 24, 1967, by Carolina Asphalt & Petroleum Company (Carolina Asphalt), Wilmington; Eastern Oil Transport, Inc. (Eastern Oil), Wilmington; J.B. Honeycutt, Inc. (Honeycutt), Lucama; Petroleum Transit Company, Incorporated (Petroleum Transit), Lumberton; Petroleum Transportation, Inc., Gastonia; Service Transportation Corporation (Service), Salisbury; Southern Oil Transportation Company, Inc. (Southern Oil), High Point; Terminal City Transport, Inc. (Terminal City), Wilmington; A.C. Widenhouse, Inc. (Widenhouse), Concord, North Carolina; and Associated Petroleum Carriers (Associated), Spartanburg, South Carolina. Protestants allege that each of them, with exception of Carolina Asphalt, are common carriers of property by motor vehicle operating in intrastate commerce in North Carolina under their respective certificates issued by the North Carolina Utilities Commission, and that each is authorized to transport and is actually engaged in the transportation of asphalt and asphalt products in bulk, to all points and places in North Carolina from originating terminals throughout the State or as may be specified in their certificates; that Carolina Asphalt has authority from this Commission to transport asphalt and asphalt products from Morehead City and other specified origin points to all points and places in North Carolina as a contract carrier; that the granting of the application will authorize a transportation service in competition with the transportation service which this Commission has authorized the Protestants to perform; that the proposed service will adversely affect the service now rendered by the Protestants in that it will permit unnecessary duplication of transportation service, decrease prospective traffic and customers of Protestants, and decrease the economical and successful utilization of equipment owned by Protestants; that the proposed service will tend to result in unprofitable operations and tend to increase the cost of service to the shipper; that public convenience and necessity does not justify the proposed service in addition to existing authorized service; that there is no public demand and need for the proposed service.

The evidence on behalf of the Applicant tends to show that the Applicant holds North Carolina irregular route common carrier authority under Certificate C-198 as follows:

(1) The transportation of petroleum products in bulk in tank trucks from all originating terminals, including Selma, Apex, and Fayetteville, in the State to points and places throughout the State;

(2) The transportation of gasoline, kerosene, fuel oils, and naphthas in bulk in tank trucks over irregular routes, between all points and places within the territory it is now authorized to make deliveries from presently authorized originating terminals;

(3) Transportation of liquefied petroleum gas in bulk in tank trucks from all originating terminals of such liquefied petroleum gas to points within the territory described in the above paragraph 1;

(4) The transportation of phosphate products, including phosphorus chloride, phosphorus, sulfide, red phosphorus, phosphorus oxide, phosphoric acids, calcium phosphates, ammonium phosphates, sulphuric acids, normal super phosphate, enriched super phosphate, triple super phosphate, concentrated phosphoric acid, sodium phosphates and other phosphate derivative products or phosphate contained products, in bulk, in tank and/or hopper vehicles, from the TexasGulf Sulphur Company plant site or sites in Beaufort County, North Carolina, and from points and places within a five (5) mile air-line radius thereof, to all points and places in North Carolina and refused or unclaimed products on return;

(5) Group 21 (formerly Group 22). Transportation of liquid fertilizer and liquid fertilizer materials, in bulk in tank trucks, between points and places within North Carolina on and east of U.S. Highway No. 1 from the Virginia State Line to the South Carolina State Line;

that Applicant seeks to extend its authority to provide for transportation of asphalt and asphalt products; that Applicant has on file annual reports, tariffs, equipment lists, evidence of liability insurance and is otherwise in compliance with the requirements of the Commission.

Applicant offered one public witness, Central Oil Asphalt Company's (Central Oil) Southern Sales Representative, whose testimony tends to show that Central Oil supports Applicant's request because it desires Applicant's transportation services for its liquid asphalt operations at Swannanoa and Morehead City, North Carolina; that B & R Transport (B & R), which is affiliated with Associated Petroleum Carriers, has provided satisfactory service for ninety-eight percent (98%) of Central Oil's Swannanoa plant

production during the fourteen (14) months of the witness's employment; that Central Oil was unable to obtain a carrier for two loads of asphalt emulsion from Swannanoa to Wilkes County on September 6, 1966; that although the witness is responsible for transportation for his company in North Carolina he has not conducted a survey of available carriers; that Southern Oil refused service on one occasion from Morehead City in March 1967; that Central Oil has not solicited business in North Carolina, other than highway business, because of, among other reasons, inadequate transportation; that in March 1967, B & R's president told the witness that B & R could not guarantee transportation outside the 13th and 14th Highway Divisions; that Central Oil expects its production and need for transportation to increase; that Central Oil did not communicate with the Utilities Commission about its inability to obtain transportation services from certificated carriers; that the witness is not familiar with the carriers serving Morehead City; that Honeycutt advised Central Oil that it was prepared to serve its Swannanoa plant with trucks based at Hendersonville, North Carolina; that Central Oil's competitors have their regular haulers and Central Oil desires to have its own haulers.

Protestant W.A. Baxter, President of B & R, which is affiliated with Associated Petroleum Carriers, offered testimony tending to show that it has been serving Central Oil for several years without complaint; that B & R has assigned seven (7) trucks and four (4) tractors to serve Central Oil's Swannanoa plant in the 13th and 14th Highway Division; that B & R's volume and revenue from Central Oil for three years was: 1964 - 27,661,980 pounds for $37,157.84; 1965 - 29,011,550 pounds for $34,690.29; 1966 - 21,532,038 pounds for $26,158.19; that B & R has received no complaint from Central Oil or the North Carolina Highway Department about its service; that the witness gave Central Oil's Swannanoa plant superintendent names of other carriers when B & R was unable to provide service from Swannanoa to Wilkes County on September 6, 1966; that B & R hauled everything the 11th Highway Division used from Central Oil's Swannanoa plant until this year when the witness told them to call other authorized carriers for transportation service outside Highway Division 11 and 12.

The testimony of Protestant witness, Carl L. Helms, Traffic Mangager of Petroleum Transportation, tends to show that on April 19 the witness called Central Oil and solicited business; that on April 20, 1967, the witness visited Central Oil's Swannanoa plant manager and solicited business; that, as of April 20, 1967, Petroleum Transportation had one (1) truck serving Central Oil's Swannanoa plant, transporting asphalt to the 11th Highway Division, Caldwell County; that Petroleum Transportation had two (2) trailers parked in Swannanoa since May 10, 1967, available for serving Central Oil; that Petroleum Transportation has a terminal in Hendersonville, North Carolina, located twenty-five (25) miles from Swannanoa;

that Petroleum Transportation has no record of Central Oil's contacting them for service prior to April 1967; that Petroleum Transportation has not failed to serve Central Oil since first requested; that Petroleum Transportation has ample equipment to serve Central Oil; that there are five (5) other certificated carriers available to provide transportation services for Central Oil.

Protestant witness, E.M. Cameron, President of Carolina Asphalt, offered testimony tending to show that his company has eight (8) insulated tanks in Morehead City which are available to Central Oil; that his company is ready, willing, and able to serve Central Oil out of Morehead City; that Carolina Asphalt has a total of thirty-eight (38) units and can provide any type of service requested.

Protestant, A.C. Widenhouse, President of Widenhouse, testified that he has thirty-eight (38) tanks in Wilmington and thirty-seven (37) in Concord available for transporting liquid asphalt; that Central Oil called his dispatcher at 5:00 p.m. on September 6, 1966, to provide transportation to Wilkes County; that the witness returned Central Oil's call the following day and was told that Central Oil did not need transportation service to the 11th Division (which includes Wilkes County); that the witness asked the plant manager to let him know if he needed help in North Carolina.

The evidence in this proceeding justifies the following

FINDINGS OF FACT

1. M & M Tank Lines, Inc., is incorporated under the laws of North Carolina, operates under Certificate C-198 issued by this Commission as a motor vehicle common carrier in the transportation of petroleum and petroleum products, phosphate products and liquid fertilizer within this State, and as such is subject to the jurisdiction of this Commission.

2. The Applicant failed to sustain the burden of proof showing to the satisfaction of this Commission that public convenience and necessity requires the proposed service in addition to existing authorized service.

3. Existing certificated carriers have sufficient facilities and are available to render the service sought by Applicant.

CONCLUSIONS

The transportation policy of the State is set forth in G.S. 62-259 as follows:

"It is the declared policy of the State of North Carolina to preserve and continue all motor carrier transportation services now afforded this State; and to provide fair and impartial regulations of motor carriers in the use of

public highways in such a manner as to promote, in the interest of the public, the inherent advantages of highway transportation; to promote and preserve adequate economical and efficient service to all the communities of the State by motor carriers; to encourage and promote harmony among all carriers and to prevent discrimination, undue preferences or advantages, or unfair or destructive competitive practices between all carriers; to foster a coordinated State-wide motor carrier service; to conform with the national transportation policy and the federal motor carriers acts insofar as the same may be practical and adequate for application to intrastate commerce."

With reference to the application for a certificate, G.S. 62-262 (e) provides that "the burden of proof shall be upon the applicant to show to the satisfaction of the Commission that public convenience and necessity require the proposed service in addition to existing authorized transportation service."

In determining the issue of public convenience and necessity, the primary questions are whether the proposed facilities will serve a public demand or need and whether such demand may be met by existing carriers. The evidence revealed no material defect in the available service of certificated carriers. The evidence further shows that the shipper did not exercise reasonable efforts to ascertain the availability of certificated carriers and to utilize their services. The testimony of Protestant witnesses and the records of this Commission show that there are several existing common carriers with idle equipment that are ready, willing, and able to provide the proposed service.

Based upon the facts and conclusions in this proceeding, the Commission ORDERS That the application of M & M Tank Lines, Inc., for authority to transport Group 21, asphalt and asphalt products, liquid, in bulk in tank trucks, from Morehead City and Swannanoa, North Carolina, to points and places in North Carolina be, and the same is hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-1372, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Naylor Mobile Homes,) RECOMMENDED
404 East Cumberland Street, Dunn,) ORDER DENYING
North Carolina) APPLICATION

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, on February 1, 1967, at 10:00 a.m.

BEFORE: E.A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

Wiley F. Bowen
Wilson & Bowen
Attorneys at Law
P.O. Box 305, Dunn, North Carolina

For the Protestants:

Earl W. Vaughn
Vaughn & Harrington
Attorneys at Law
W. Washington Street
Leaksville, North Carolina
For: Morgan Drive Away, Inc.

William W. Staton
Pittman, Staton & Betts
Attorneys at Law
316 Carthage Street
Sanford, North Carolina
For: Boyd Q. Douglas, t/a Dreamland Mobile Home Park

Charles B. Morris, Jr.
Jordan, Morris & Hoke
Attorneys at Law
P.O. Box 1606, Raleigh, North Carolina
For: Transit Homes, Inc.

HUGHES, EXAMINER: By application filed with the Commission on November 30, 1966, Luby Naylor, d/b/a Naylor Mobile Homes, 404 East Cumberland Street, Dunn, North Carolina (Applicant), seeks authority as an irregular route common carrier to engage in the transportation of mobile homes within the territory described in the application as Harnett, Sampson, Johnston, Duplin, Pender, Bladen, Robeson and Cumberland Counties. Notice of the application with a description of the rights sought, along with the time and place of hearing, was published in the Commission's Calendar of Hearings issued on December 15, 1966.

Protests to the granting of the application were timely filed by Transit Homes, Inc., Greenville, South Carolina; Morgan Drive Away, Inc., Elkhart, Indiana, and Boyd Q. Douglas, t/a Dreamland Mobile Home Park, Sanford, North Carolina.

All parties were present and represented by counsel.

At the call of the case, Applicant moved to amend the application by deleting from the territorial authority sought the Counties of Duplin, Pender, Bladen, Robeson and Cumberland. The motion was allowed and the application, as amended, involves only three (3) Counties, namely, Harnett, Sampson and Johnston.

The evidence for Applicant tends to show that Applicant is a dealer in mobile homes and, in addition, operates a mobile home park in Dunn; that in connection with his business, he owns what is commonly referred to as a short dog tractor especially designed to pull mobile homes or house trailers; that, from time to time, he has been contacted by persons who wish to have their house trailers moved; that there are five (5) mobile home parks located in Dunn, three (3) or four (4) such parks in Clinton and two (2) in Benson. The Applicant and one of his employees testified relative to calls or inquiries which had been received from persons allegedly in need of the service proposed.

In addition, Applicant offered three (3) other witnesses. These include the operator of a mobile home court in Dunn, who testified that, in his opinion, additional service was needed, but that the only need he would have for the service applied for would be within the Town of Dunn. Another witness is a Dunn building contractor who testified that he has three employees who live in trailers and who must be moved occasionally from one job to another, but that he had never needed such service between points in the counties applied for. The final witness, a farmer, testified that sometime ago he encountered difficulty in getting a house trailor moved some four miles from Dunn and finally moved it himself.

A motion to dismiss the application was made by Protestants for the reason that Applicant had failed to offer evidence which would show any public need for the service proposed in addition to that now being provided by existing carriers. The motion was taken under advisement by the Hearing Examiner.

The evidence for Protestants indicates that there is an abundance of service available to the involved territory from adjoining counties; that terminals are located in Fayetteville, Goldsboro, Raleigh, and Sanford; that business within the three counties applied for is actively solicited by personal contact, advertisements in the newspapers, trade magazines, calling cards and in the yellow pages of telephone directories. None of the Protestants had ever received a complaint of failure to provide adequate service within the involved area.

All parties waived the privilege of filing briefs.

Upon consideration of the record and the evidence adduced in this proceeding, the Hearing Examiner makes the following

FINDING OF FACT

That public convenience and necessity does not require the proposed service in addition to existing authorized transportation service.

CONCLUSIONS

This is the second application within four months which Applicant has made to the Commission for identical authority within Harnett, Sampson and Johnston Counties. The first such application, which also included Duplin, Pender and Bladen Counties within the territory sought, was denied by order of the Commission dated September 22, 1966, the denial being based upon a finding that public convenience and necessity did not require the proposed service in addition to existing authorized transportation service. The record in this case is barren of any showing that there has been any change which would alter the previous finding.

G.S. 62-262, among other things, provides that if the application is for a certificate, the burden of proof shall be upon the Applicant to show to the satisfaction of the Commission that public convenience and necessity requires the proposed service in addition to existing authorized service. No reasonable showing has been made that existing authorized service is unsatisfactory or that public demand and need exists for the proposed service in addition to existing authorized transportation service.

The motion made by Protestants during the hearing that the application be dismissed, ruling on which was withheld at the time, will be allowed.

IT IS, THEREFORE, ORDERED That the application of Luby Naylor, d/b/a Naylor Mobile Homes, Dunn, North Carolina, for a certificate of convenience and necessity to engage in the transportation of mobile homes within the counties sought be, and the same is, hereby denied and the proceeding discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-688, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
The Transport Corporation, Blackstone, Virginia) ORDER APPROVING CHANGE IN CORPORATE NAME

Upon consideration of petition duly filed:

It appearing, That a certificate has previously been issued by the Commission to the above named carrier; that the corporate name of said carrier has been changed to Epes Transport System, Incorporated, as of January 3, 1967; and that said carrier has duly petitioned this Commission to amend its records to reflect the change in corporate name;

It further appearing, That the change of corporate name requested does not involve a change in the ownership, management, or control of the operating rights of said carrier; therefore,

IT IS ORDERED that the Commission's records be, and they are hereby, amended to reflect carrier's corporate name as

EPES TRANSPORT SYSTEM, INCORPORATED

IT IS FURTHER ORDERED That petitioner file certificates of the required insurance, tariffs of rates and charges, lists of equipment, and designation of process agent in the new corporate name, and otherwise comply with the rules and regulations of the Commission within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-80, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Gastonia Motor Express, Incorporated,)
Charlotte, North Carolina - Change of) ORDER CHANGING
Corporate Name) CORPORATE NAME

Upon consideration of the record in the above entitled matter and of a petition filed with the Commission on December 12, 1967, enclosing amendment to the corporate charter of Gastonia Motor Express, Incorporated, changing its corporate name to Lloyd Motor Express, Ltd., and requesting the Commission to amend its records; and good cause appearing therefor,

IT IS ORDERED That the records of the Commission be, and the same are, hereby amended to show the corporate name of Petitioner as

LLOYD MOTOR EXPRESS, LTD.

IT IS FURTHER ORDERED That Petitioner file evidence of insurance, tariff of rates and charges, lists of equipment, designation of process agent in the new corporate name and otherwise comply with the rules and regulations of the Commission within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1379

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
National Music Sales, Inc., 612 S. Church Street, Rocky Mount, North Carolina) ORDER APPROVING ADOPTION OF TRADE NAME

Upon consideration of petition duly filed:

It appearing, That certain motor operating authority has been acquired by the above named carrier in this proceeding; that carrier desires to adopt and use the trade name National Moving & Storage; and that the said carrier has duly petitioned this Commission to amend its records to reflect said trade name;

It further appearing, That the adoption of the trade name requested does not involve a change in the ownership, management, or control of the operating rights of said carrier;

IT IS, THEREFORE, ORDERED That the Commission's records be, and they are, hereby amended to reflect carrier's name and trade name as

NATIONAL MUSIC SALES, INC.
t/a NATIONAL MOVING & STORAGE

IT IS FURTHER ORDERED That National Music Sales, Inc., comply with Article 14 of Chapter 66 of the North Carolina General Statutes relating to doing business under an assumed name.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-498

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
W.C. Roney, Route 7, Box 481, Burlington, North Carolina) ORDER APPROVING ADOPTION OF TRADE NAME

Upon consideration of petition duly filed:

It appearing, That certain motor operating authority has been acquired by the above named carrier in this proceeding; that carrier desires to adopt and use the trade name W.C. Roney Trucking Co.; and that the said carrier has duly petitioned this Commission to amend its records to reflect said trade name;

It further appearing, That the adoption of the trade name requested does not involve a change in the ownership, management, or control of the operating rights of said carrier;

IT IS, THEREFORE, ORDERED That the Commission's records be, and they are, hereby amended to reflect carrier's name and trade name as

W.C. RONEY
t/a W.C. RONEY TRUCKING CO.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of June, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1387

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Bunch's Trucking, Inc., Murfreesboro, North Carolina) RECOMMENDED ORDER

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, on March 2, 1967, at 10:00 a.m.

BEFORE: E.A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina

No Protestants.

HUGHES, EXAMINER: By application filed with the Commission on January 20, 1967, Bunch's Trucking, Inc., Murfreesboro, North Carolina (Applicant), seeks an irregular route common carrier certificate to engage in the transportation of Group 6, Agricultural Commodities; Group 7, Cotton in Bales; Group 8, Dry Fertilizer and Dry Fertilizer Materials; and Group 9, Forest Products, between all points and places in North Carolina. Notice of said application, along with the time and place of hearing was given in the Commission's Calendar of Hearings issued on February 1, 1967. The application is unopposed.

Evidence tends to show that applicant is a corporation organized under the laws of the State of North Carolina in January of 1967; that the initial Board of Directors are Percy E. Bunch, principal stockholder, and Frances M. Bunch, both of Murfreesboro, North Carolina, and Jane Godwin, of Ahoskie, North Carolina; that Percy E. Bunch, president and principal owner of applicant corporation, is engaged in a number of other enterprises, including the operation of a peanut storage house; that Mr. Bunch has been engaged in the trucking business, both private and exempt for hire, for a number of years; that, through the lease of his equipment to regulated carriers, he has hauled cotton in bales and other agricultural commodities, including forest products; that peanuts and fertilizer have been hauled by him as an exempt for hire carrier; that he owns some thirteen (13) pieces of equipment, including seven (7) tractors which will be transferred to the applicant corporation; that applicant is qualified, financially and otherwise, to acquire the authority sought and furnish an adequate and continuing service thereunder.

Upon consideration of the application, the testimony of record and the evidence adduced, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That public convenience and necessity require the proposed service in addition to existing authorized transportation service, and

2. That the applicant is fit, willing and able to properly perform the proposed service, and

3. That the applicant is solvent and financially able to furnish adequate service on a continuing basis.

CONCLUSIONS

Based upon the uncontradicted evidence of record and the facts found to exist, it is the conclusion of the Hearing Examiner that applicant has satisfied the burden of proof required by statute and that the authority sought should be granted.

IT IS, THEREFORE, ORDERED That a common carrier certificate be granted Bunch's Trucking, Inc., Murfreesboro, North Carolina, to engage in the Transportation of Group 6, Agricultural Commodities; Group 7, Cotton in Bales; Group 8, Dry Fertilizer and Dry Fertilizer Materials; and Group 9, Forest Products, as particularly described in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Bunch's Trucking, Inc., file with the Commission a tariff of rates and charges, evidence of the required insurance, lists of equipment, designation of process agent, and otherwise comply with the rules and regulations of the Commission and institute operations under the authority herein acquired within thirty (30) days from the date that this order becomes final.

IT IS FURTHER ORDERED That Exemption Certificate No. E-12413, heretofore issued to Percy Elvin Bunch, be, and the same is, hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1387

Bunch's Trucking, Inc.
Murfreesboro, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of Group 6, Agricultural Commodities; Group 7, Cotton in Bales; Group 8, Dry Fertilizer and Dry Fertilizer Materials; and Group 9, Forest Products, between all points and places in North Carolina.

DOCKET NO. T-211, SUB 8

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Carolina Freight Carriers Corporation)
for authority to transport Group 1, General Commod-)
ities, from Charlotte, North Carolina, over N.C.)
Highway No. 49 to junction of N.C. Highway 160,) ORDER
thence over N.C. Highway No. 160 to junction of U.S.)
Highway No. 29 (at or near Charlotte), and return)
over same route, serving all intermediate points)

HEARD IN: The Hearing Room of the Commission, Old YMCA Building, Raleigh, North Carolina, on November 15, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

T.D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
P.O. Box 527, Raleigh, North Carolina

No Protestants.

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on September 28, 1967, by Carolina Freight Carriers Corporation wherein the applicant seeks authority to transport in intrastate commerce, as a regular route common carrier, general commodities, as referred to in Group 1 on page 2 of the application, over the following described route:

> From Charlotte, North Carolina, over North Carolina Highway No. 49 to junction of North Carolina Highway 160, thence over North Carolina Highway 160 to junction of U.S. Highway 29 (at or near Charlotte), and return over same route, serving all intermediate points.

The Calendar of Hearings issued by the Commission on October 3, 1967, set this application for hearing at the time and place above stated. Said Calendar also set for hearing at said time and place the applications of seven other regular route common carriers also seeking the same authority, and upon motion of counsel for applicant, who stated that he was appearing for all of said applicants, the hearing of all of said applications was consolidated. Said counsel further stated that none of said applicants protested the granting of authority as sought by any other applicant and that each supported the application of the others. Counsel for

applicant further requested that the same evidence be considered in support of all of the applications thus consolidated for hearing, which request was granted.

It was agreed that the Commission would take judicial notice of the existing authorities of the applicant, of the financial statements filed by it with the Commission, of the lists of its equipment on file with the Commission, of its prevailing tariffs, and of all other records and information contained in the files of the Commission pertaining to the applicant. The application itself and the attachments thereto were submitted and received into evidence as an affidavit.

Based upon the evidence adduced at the hearing and contained in the records and documents of which judicial notice is taken, the Commission makes the following

FINDINGS OF FACT

1. That the applicant now holds N.C. Intrastate Common Carrier Certificate No. C-117 and Interstate Common Carrier Certificate No. MC-2253; and that pursuant to said authorities it now operates as a regular route common carrier.

2. That Westinghouse Electric Corporation now has under construction a large manufacturing facility located in Steel Creek Township, Mecklenburg County, on N.C. Highway No. 160 near the City of Charlotte, North Carolina; that the plant site of said Westinghouse Electric Corporation is not on the route of any existing intrastate regular route common carrier and is beyond the service area of such carriers operating into Charlotte, North Carolina, although said plant site is situated on existing routes of interstate carriers and is within the territory of certain irregular route common carriers operating in North Carolina; that when said manufacturing facility is completed it is estimated that 50 percent of its incoming freight tonnage will consist of intrastate shipments transported by motor truck carrier; that said Westinghouse Electric Corporation has need of the intrastate transportation services of the various regular route intrastate common carriers operating into and from the Charlotte area and supports the application of applicant for the authority herein sought.

3. That the route herein sought serves not only the Westinghouse Electric Corporation plant site but also the industrial park area in the vicinity in which other industries are expected to locate and which will also have need of intrastate regular route common carrier motor freight service.

4. That the applicant is fit, willing and able to serve the route hereinabove mentioned and to provide, along with other applicants, the transportation needs that now exist and may hereafter arise along said route.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. That the public convenience and necessity will be served, both now and in the future, by the granting to applicant of the authority to serve the route designated in Exhibit A hereto attached.

2. That the granting of said authority will not be burdensome or duplicative of existing intrastate motor freight authorities and services.

3. That the applicant is able and willing to provide regular route intrastate motor freight transportation along said route.

IT IS, THEREFORE, ORDERED that applicant's intrastate Common Carrier Certificate No. C-117 be amended to include the authority set forth in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED that the applicant cause to be amended its tariff on file with this Commission so as to indicate to the shipping and receiving public its authorization to render service within the territory herein granted by this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of November, 1967.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-211, SUB 8

Carolina Freight Carriers Corporation
P.O. Box 697
Cherryville, North Carolina

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of general commoditites, except those requiring special equipment, over the following route:

From Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points.

DOCKET NO. T-262, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Central Motor Lines, Inc., for authority to transport Group 1, General Commodities, from Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points) ORDER

HEARD IN: The Hearing Room of the Commission, Old YMCA Building, Raleigh, North Carolina, on November 15, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

T.D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
P.O. Box 527, Raleigh, North Carolina

No Protestants.

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on September 28, 1967, by Central Motor Lines, Inc., wherein the applicant seeks authority to transport in intrastate commerce, as a regular route common carrier, general commodities, as referred to in Group 1 on page 2 of the application, over the following described route:

> From Charlotte, North Carolina, over North Carolina Highway No. 49 to junction of North Carolina Highway 160, thence over North Carolina Highway 160 to junction of U.S. Highway 29 (at or near Charlotte), and return over same route, serving all intermediate points.

The Calendar of Hearings issued by the Commission on October 3, 1967, set this application for hearing at the time and place above stated. Said Calendar also set for hearing at said time and place the applications of seven other regular route common carriers also seeking the same authority, and upon motion of counsel for applicant, who stated that he was appearing for all of said applicants, the hearing of all said applications was consolidated. Said counsel further stated that none of said applicants protested the granting of authority as sought by any other applicant and that each supported the application of the others. Counsel for

applicant further requested that the same evidence be considered in support of all of the applications thus consolidated for hearing, which request was granted.

It was agreed that the Commission would take judicial notice of the existing authorities of the applicant, of the financial statements filed by it with the Commission, of the lists of its equipment on file with the Commission, of its prevailing tariffs, and of all other records and information contained in the files of the Commission pertaining to the applicant. The application itself and the attachments thereto were submitted and received into evidence as an affidavit.

Based upon the evidence adduced at the hearing and contained in the records and documents of which judicial notice is taken, the Commission makes the following

FINDINGS OF FACT

1. That the applicant now holds N.C. Intrastate Common Carrier Certificate No. C-124 and Interstate Common Carrier Certificate No. MC-39406; and that pursuant to said authorities it now operates as a regular route common carrier.

2. That Westinghouse Electric Corporation now has under construction a large manufacturing facility located in Steel Creek Township, Mecklenburg County, on N.C. Highway No. 160 near the City of Charlotte, North Carolina; that the plant site of said Westinghouse Electric Corporation is not on the route on any existing intrastate regular route common carrier and is beyond the service area of such carriers operating into Charlotte, North Carolina, although said plant site is situated on existing routes of interstate carriers and is within the territory of certain irregular route common carriers operating in North Carolina; that when said manufacturing facility is completed it is estimated that 50 percent of its incoming freight tonnage will consist of intrastate shipments transported by motor truck carriers; that said Westinghouse Electric Corporation has need of the intrastate transportation services of the various regular route intrastate common carriers operating into and from the Charlotte area and supports the application of applicant for the authority herein sought.

3. That the route herein sought serves not only the Westinghouse Electric Corporation plant site but also the industrial park area in the vicinity in which other industries are expected to locate and which will also have need of intrastate regular route common carrier motor freight service.

4. That the applicant is fit, willing and able to serve the route hereinabove mentioned and to provide, along with other applicants, the transportation needs that now exist and may hereafter arise along said route.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. That the public convenience and necessity will be served, both now and in the future, by the granting to applicant of the authority to serve the route designated in Exhibit A hereto attached.

2. That the granting of said authority will not be burdensome or duplicative of existing intrastate motor freight authorities and services.

3. That the applicant is able and willing to provide regular route intrastate motor freight transportation along said route.

IT IS, THEREFORE, ORDERED that applicant's intrastate Common Carrier Certificate No. C-124 be amended to include the authority set forth in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED that the applicant cause to be amended its tariff on file with this Commission so as to indicate to the shipping and receiving public its authorization to render service within the territory herein granted by this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-262, SUB 7

Central Motor Lines, Inc.
324 North College Street
Charlotte, North Carolina

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of general commodities, except those requiring special equipment, over the following route:

From Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points.

DOCKET NO. T-645, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Fredrickson Motor Express Corporation for authority to transport Group 1, General Commodities; Group 10, Building Materials; and Group 12, Explosives and Other Dangerous Articles, from Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points	ORDER

HEARD IN: The Hearing Room of the Commission, Old YMCA Building, Raleigh, North Carolina, on November 15, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

T.D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
P.O. Box 527, Raleigh, North Carolina

No Protestants.

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on September 28, 1967, by Fredrickson Motor Express Corporation wherein the applicant seeks authority to transport in intrastate commerce, as a regular route common carrier, Group 1, General Commodities; Group 10, Building Materials; and Group 12, Explosives and Other Dangerous Articles, as referred to on page 2 of the application, over the following described route:

Between Charlotte, North Carolina and Charlotte, North Carolina, as follows:

From Charlotte, North Carolina, over North Carolina Highway No. 49 to junction of North Carolina Highway 160, thence over North Carolina Highway 160 to junction of U.S. Highway 29 (at or near Charlotte), and return over same route, serving all intermediate points.

Applicant further seeks by this application authority to engage in the transportation of general commodities, except those requiring special equipment, in interstate or foreign commerce, as hereinabove described, under the provisions of

Section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962 [49 USCA 306(a)(6)].

The Calendar of Hearings issued by the Commission on October 3, 1967, set this application for hearing at the time and place above stated. Said Calendar also set for hearing at said time and place the applications of seven other regular route common carriers also seeking the same intrastate authority, and upon motion of counsel for applicant, who stated that he was appearing for all of said applicants, the hearing of all of said applications was consolidated. Said counsel further stated that none of said applicants protested the granting of authority as sought by any other applicant and that each supported the application of the others. Counsel for applicant further requested that the same evidence be considered in support of all of the applications thus consolidated for hearing, which request was granted.

Counsel for the applicant also moved to amend the application by deleting from the classes of property to be covered by the application Group 10, Building Materials, and Group 12, Explosives and Other Dangerous Articles, so that the application, as amended, would cover only Group 1, General Commodities. The motion was allowed.

It was agreed that the Commission would take judicial notice of the existing authorities of the applicant, of the financial statements filed by it with the Commission, of the lists of its equipment on file with the Commission, of its prevailing tariffs, and of all other records and information contained in the files of the Commission pertaining to the applicant. The application itself and the attachments thereto were submitted and received into evidence as an affidavit.

Based upon the evidence adduced at the hearing and contained in the records and documents of which judicial notice is taken, the Commission makes the following

FINDINGS OF FACT

1. That the applicant now holds N.C. Intrastate Common Carrier Certificate No. C-1 and Interstate Common Carrier Certificate No. MC-28307; and that pursuant to said authorities it now operates as a regular route common carrier.

2. That Westinghouse Electric Corporation now has under construction a large manufacturing facility located in Steel Creek Township, Mecklenburg County, on N.C. Highway No. 160 near the City of Charlotte, North Carolina; that the plant site of said Westinghouse Electric Corporation is not on the route of any existing intrastate regular route common carrier and is beyond the service area of such carriers operating into Charlotte, North Carolina, although said plant site is situated on existing routes of interstate

carriers and is within the territory of certain irregular route common carriers operating in North Carolina; that when said manufacturing facility is completed it is estimated that 50 percent of its incoming freight tonnage will consist of intrastate shipments transported by motor truck carrier; that said Westinghouse Electric Corporation has need of the intrastate transportation services of the various regular route intrastate common carriers operating into and from the Charlotte area and supports the application of applicant for the authority herein sought.

3. That the route herein sought serves not only the Westinghouse Electric Corporation plant site but also the industrial park area in the vicinity in which other industries are expected to locate and which will also have need of intrastate regular route common carrier motor freight service.

4. That the applicant is fit, willing and able to serve the route hereinabove mentioned and to provide, along with other applicants, the transportation needs that now exist and may hereafter arise along said route.

5. That public convenience and necessity requires that the carrier authorized to engage in intrastate operations also be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized to be conducted.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. That the public convenience and necessity will be served, both now and in the future, by the granting to applicant of the authority to serve the route designated in Exhibit A hereto attached, both in providing interstate and intrastate transportation services.

2. That the granting of said authority will not be burdensome or duplicative of existing intrastate motor freight authorities and services.

3. That the applicant is able and willing to provide regular route intrastate motor freight transportation along said route.

IT IS, THEREFORE, ORDERED that applicant's intrastate Common Carrier Certificate No. C-1 be amended to include the authority set forth in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERD that the applicant cause to be amended its tariff on file with this Commission so as to indicate to the shipping and receiving public its

authorization to render service within the territory herein granted by this Commission.

IT IS FURTHER ORDERED that the applicant be and it is hereby authorized to file with the Interstate Commerce Commission a copy of this order as evidence for a certificate of registration in accordance with the provisions of Section 206(a)(6) of the Interstate Commerce Act, as amended [49 USCA 306(a)(6)], relating to registration of state motor carrier certificates.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-645, SUB 10

Fredrickson Motor Express Corporation
3400 North Graham Street
Charlotte, North Carolina

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of general commodities, except those requiring special equipment, over the following route:

From Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points.

DOCKET NO. T-681, SUB 25

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Helms Motor Express, Inc., for authority to transport Group 1, General Commodities, and Group 12, Explosives and Other Dangerous Articles, from Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points) ORDER

HEARD IN: The Hearing Room of the Commission, Old YMCA Building, Raleigh, North Carolina, on November 15, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

T.D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
P.O. Box 527, Raleigh, North Carolina

No Protestants.

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on September 28, 1967, by Helms Motor Express, Inc., wherein the applicant seeks authority to transport in intrastate commerce, as a regular route common carrier, Group 1, General Commodities, and Group 12, Explosives and Other Dangerous Articles, as referred on page 2 of the application, over the following described route:

From Charlotte, North Carolina, over North Carolina Highway No. 49 to junction of North Carolina Highway 160, thence over North Carolina Highway 160 to junction of U.S. Highway 29 (at or near Charlotte), and return over same route, serving all intermediate points.

Applicant further seeks by this application authority to engage in the transportation of general commodities, except those requiring special equipment, in interstate or foreign commerce, as hereinabove described, under the provisions of Section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962 [49 USCA 306(a)(6)].

The Calendar of Hearings issued by the Commission on October 3, 1967, set this application for hearing at the time and place above stated. Said Calendar also set for hearing at said time and place the applications of seven other regular route common carriers also seeking the same intrastate authority, and upon motion of counsel for applicant, who stated that he was appearing for all of said applicants, the hearing of all of said applications was consolidated. Said counsel further stated that none of said applicants protested the granting of authority as sought by any other applicant and that each supported the application of the others. Counsel for applicant further requested that the same evidence be considered in support of all of the applications thus consolidated for hearing, which request was granted.

Counsel for the applicant also moved to amend the application by deleting from the classes of property to be covered by the application Group 12, Explosives and Other Dangerous Articles, so that the application, as amended, would cover only Group 1, General Commodities. The motion was allowed.

It was agreed that the Commission would take judicial notice of the existing authorities of the applicant, of the financial statements filed by it with the Commission, of the lists of its equipment on file with the Commission, of its prevailing tariffs, and of all other records and information contained in the files of the Commission pertaining to the applicant. The application itself and the attachments thereto were submitted and received into evidence as an affidavit.

Based upon the evidence adduced at the hearing and contained in the records and documents of which judicial notice is taken, the Commission makes the following

FINDINGS OF FACT

1. That the applicant now holds N.C. Intrastate Common Carrier Certificate No. C-3 and Interstate Common Carrier Certificate No. MC-113067; and that pursuant to said authorities it now operates as a regular route common carrier.

2. That Westinghouse Electric Corporation now has under construction a large manufacturing facility located in Steel Creek Township, Mecklenburg County, on N.C. Highway No. 160 near the City of Charlotte, North Carolina; that the plant site of said Westinghouse Electric Corporation is not on the route of any existing intrastate regular route common carrier and is beyond the service area of such carriers operating into Charlotte, North Carolina, although said plant site is situated on existing routes of interstate carriers and is within the territory of certain irregular route common carriers operating in North Carolina; that when said manufacturing facility is completed it is estimated that 50 percent of its incoming freight tonnage will consist of intrastate shipments transported by motor truck carrier; that said Westinghouse Electric Corporation has need of the intrastate transportation services of the various regular route intrastate common carriers operating into and from the Charlotte area and supports the application of applicant for the authority herein sought.

3. That the route herein sought serves not only the Westinghouse Electric Corporation plant site but also the industrial park area in the vicinity in which other industries are expected to locate and which will also have need of intrastate regular route common carrier motor freight service.

4. That the applicant is fit, willing and able to serve the route hereinabove mentioned and to provide, along with other applicants, the transportation needs that now exist and may hereafter arise along said route.

5. That public convenience and necessity requires that the carrier authorized to engage in intrastate operations also be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized to be conducted.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. That the public convenience and necessity will be served, both now and in the future, by the granting to applicant of the authority to serve the route designated in Exhibit A hereto attached, both in providing interstate and intrastate transportation services.

2. That the granting of said authority will not be burdensome or duplicative of existing intrastate motor freight authorities and services.

3. That the applicant is able and willing to provide regular route intrastate motor freight transportation along said route.

IT IS, THEREFORE, ORDERED that applicant's intrastate Common Carrier Certificate No. C-3 be amended to include the authority set forth in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED that the applicant cause to be amended its tariff on file with this Commission so as to indicate to the shipping and receiving public its authorization to render service within the territory herein granted by this Commission.

IT IS FURTHER ORDERED that the applicant be and it is hereby authorized to file with the Interstate Commerce Commission a copy of this order as evidence for a certificate of registration in accordance with the provisions of Section 206(a)(6) of the Interstate Commerce Act, as amended [49 USCA 306(a)(6)], relating to registration of state motor carrier certificates.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-681, SUB 25

Helms Motor Express, Inc.
1024 North Second Street
Albemarle, North Carolina

Regular Route-Common Carrier Authority

EXHIBIT A

Transportation of general commodities, except those requiring special equipment, over the following route:

From Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points.

DOCKET NO. T-149, SUB 16

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Maybelle Transport Company, Lexington, North Carolina, for contract carrier authority to transport Group 21, Paper and Paper Products, between the plant of Albemarle Paper Company at Lexington, North Carolina, and points and places in North Carolina, and Supplies and equipment used in corrugated box manufacturing from points and places in North Carolina to the plant of Albemarle Paper Company at Lexington, North Carolina) ORDER

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on Tuesday, April 11, 1967, at 10:00 a.m.

BEFORE: Commissioners Sam O. Worthington, John W. McDevitt, and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

For the Applicant:

Tom Steed, Jr.
Allen, Steed, & Pullen
P.O. Box 2058, Raleigh, North Carolina

No Protestants.

ELLER, COMMISSIONER: This is an application for additional contract carrier authority filed, noticed, and heard as captioned.

Upon the evidence adduced, which is uncontested and of record, we make the following

FINDINGS OF FACT

1. Maybelle Transport Company (Maybelle) is a duly authorized and existing corporation and common carrier with headquarters at Lexington, North Carolina. It also holds a contract carrier permit authorizing it to transport commodities similar to those for which an additional permit is sought in this docket.

2. Maybelle has and operates a large fleet of tractor-trailer units with experienced personnel in both intrastate and interstate transportation service, has a net worth of about $49,000, and plans to invest about $25,000 in equipment to be used in providing the proposed service.

3. Albemarle Paper Company (Albemarle), a corporation with headquarters in Richmond, Virginia, has recently completed construction of a corrugated box plant at Lexington in Davidson County, North Carolina. Initially, the company will convert corrugated sheets into boxes and market them in North Carolina. Later, the plant will convert paper board into corrugated sheets and then into corrugated boxes and market them on a volume basis.

4. Albemarle uses common carriage, but does not rely on it exclusively, using both private and contract carriage as well. Presently, the company plans to lease and use one tractor, two trailers, and a straight truck in its operations from Lexington. However, Albemarle proposes to substitute contract carrier service under contract with Maybelle for private carriage to the extent Maybelle's specialized service and dedication of equipment is considered an adequate replacement.

5. Maybelle and Albemarle have entered a written contract providing rates on a mileage bracket basis designed to produce revenue substantially the same as, or slightly higher than, common carrier rates.

6. The service which Maybelle will render Albemarle is on a seven (7) day week, twenty-four (24) hours per day, call basis. Maybelle will dedicate suitable equipment and drivers exclusively to Albemarle's use and will station equipment at the plant on facilities provided by Albemarle.

CONCLUSIONS

1. Maybelle's proposed operations conform with the definition of a contract carrier as set forth in G.S. 62-262.

2. The proposed operations will not unreasonably impair the efficient public service of other carriers operating under contract carrier certificates, or rail carriers, or the use of the highways by the general public.

3. Applicant, Maybelle Transport Company, is fit, willing, and able to properly perform the service proposed.

4. The proposed operations are consistent with the public interest and the policy declared in Chapter 62 of the North Carolina General Statutes.

Accordingly, IT IS ORDERED:

1. That Applicant, Maybelle Transport Company, be, and it is hereby, granted contract carrier authority to transport paper and paper products and supplies and equipment used in corrugated box manufacturing under contract with Albemarle Paper Company at Lexington, North Carolina, in accordance with Exhibit A hereto attached.

2. That this order shall be full evidence of the authority herein granted and no further evidence need issue.

3. That Applicant be, and it is hereby, allowed thirty (30) days from the date this order issues in which to file necessary schedule of minimum rates, its equipment list, its evidence of security for the protection of the public, and otherwise comply with the rules of this Commission and the laws of the state as they affect the operations herein authorized. In no event shall Applicant begin operations until it has satisfactorily complied with this paragraph.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-149, SUB 16

Maybelle Transport Company
Lexington, North Carolina

Contract Carrier of Property

EXHIBIT A

Transportation of Group 21, Paper and Paper Products, between the plant of Albemarle Paper Company at Lexington, North Carolina, and points and places in North Carolina, and supplies and equipment used in corrugated box manufacturing from points and places in North Carolina to the plant of Albemarle Paper Company at Lexington, North Carolina, and return of refused or rejected shipments of supplies and

equipment from Lexington to points and places in North Carolina.

DOCKET NO. T-3, SUB 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of The New Dixie Lines, Incorporated, for authority to transport Group 1, General Commodities, from Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points) ORDER

HEARD IN: The Hearing Room of the Commission, Old YMCA Building, Raleigh, North Carolina, on November 15, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

T.D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
P.O. Box 527, Raleigh, North Carolina

No Protestants.

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on September 28, 1967, by The New Dixie Lines, Incorporated, wherein the applicant seeks authority to transport in intrastate commerce, as a regular route common carrier, general commodities, as referred to in Group 1 on page 2 of the application, over the following described route:

From Charlotte, North Carolina, over North Carolina Highway No. 49 to junction of North Carolina Highway 160, thence over North Carolina Highway 160 to junction of U.S. Highway 29 (at or near Charlotte), and return over same route, serving all intermediate points.

The Calendar of Hearings issued by the Commission on October 3, 1967, set this application for hearing at the time and place above stated. Said Calendar also set for hearing at said time and place the applications of seven other regular route common carriers also seeking the same authority, and upon motion of counsel for applicant, who stated that he was

appearing for all of said applicants, the hearing of all of said applications was consolidated. Said counsel further stated that none of said applicants protested the granting of authority as sought by any other applicant and that each supported the application of the others. Counsel for applicant further requested that the same evidence be considered in support of all of the applications thus consolidated for hearing, which request was granted.

It was agreed that the Commission would take judicial notice of the existing authorities of the applicant, of the financial statements filed by it with the Commission, of the lists of its equipment on file with the Commission, of its prevailing tariffs, and of all other records and information contained in the files of the Commission pertaining to the applicant. The application itself and the attachments thereto were submitted and received into evidence as an affidavit.

Based upon the evidence adduced at the hearing and contained in the records and documents of which judicial notice is taken, the Commission makes the following

FINDINGS OF FACT

1. That the applicant now holds N.C. Intrastate Common Carrier Certificate No. C-472 and Interstate Common Carrier Certificate No. MC-3833; and that pursuant to said authorities it now operates as a regular route common carrier.

2. That Westinghouse Electric Corporation now has under construction a large manufacturing facility located in Steel Creek Township, Mecklenburg County, on N.C. Highway No. 160 near the City of Charlotte, North Carolina; that the plant site of said Westinghouse Electric Corporation is not on the route of any existing intrastate regular route common carrier and is beyond the service area of such carriers operating into Charlotte, North Carolina, although said plant site is situated on existing routes of interstate carriers and is within the territory of certain irregular route common carriers operating in North Carolina; that when said manufacturing facility is completed it is estimated that 50 percent of its incoming freight tonnage will consist of intrastate shipments transported by motor truck carrier; that said Westinghouse Electric Corporation has need of the intrastate transportation services of the various regular route intrastate common carriers operating into and from the Charlotte area and supports the application of applicant for the authority herein sought.

3. That the route herein sought serves not only the Westinghouse Electric Corporation plant site but also the industrial park area in the vicinity in which other industries are expected to locate and which will also have need of intrastate regular route common carrier motor freight service.

4. That the applicant is fit, willing and able to serve the route hereinabove mentioned and to provide, along with other applicants, the transportation needs that now exist and may hereafter arise along said route.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. That the public convenience and necessity will be served, both now and in the future, by the granting to applicant of the authority to serve the route designated in Exhibit A hereto attached.

2. That the granting of said authority will not be burdensome or duplicative of existing intrastate motor freight authorities and services.

3. That the applicant is able and willing to provide regular route intrastate motor freight transportation along said route.

IT IS, THEREFORE, ORDERED that applicant's intrastate Common Carrier Certificate No. C-472 be amended to include the authority set forth in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED that the applicant cause to be amended its tariff on file with this Commission so as to indicate to the shipping and receiving public its authorization to render service within the territory herein granted by this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-3, SUB 14

The New Dixie Lines, Incorporated
Brook Road and Norwood Avenue
Richmond, Virginia

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of general commodities, except those requiring special equipment, over the following route:

From Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over

N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points.

DOCKET NO. T-1390

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of O.K. Motor Lines, Inc., P.O. Box 1391, Hickory, North Carolina, for Authority to Operate as a Contract Carrier and to Transport Group 21, Folding Cartons from Hickory, North Carolina, to all Points in the State of North Carolina) RECOMMENDED ORDER

HEARD IN: Commission Hearing Room, Raleigh, North Carolina, on March 29, 1967

BEFORE: I.H. Hinton, Examiner

APPEARANCES:

For the Applicant:

A.W. Flynn, Jr.
York, Boyd & Flynn
P.O. Box 127, Greensboro, North Carolina

No Protestants.

HINTON, EXAMINER: By application filed with the Commission on February 17, 1967, O.K. Motor Lines, Inc. (Applicant), P.O. Box 1391, Hickory, North Carolina, seeks a contract carrier permit to engage in the transportation of Group 21, Folding Cartons from Hickory, North Carolina, to all points and places in North Carolina, under contract with Fidelity Cartons, Inc. (Shipper), Hickory, North Carolina.

Notice of the application, time and place of hearing was given in the Commission's Calendar of Hearings issued March 2, 1967. Public hearing was held as scheduled. There were no protests filed and no one appeared at the hearing in opposition thereto.

The applicant introduced evidence tending to show that it is a corporation organized under the laws of North Carolina on December 21, 1966, and that the officers are Carl D. Bunton, Jr., President, O.K. Whittington, Vice President, and Virginia Poard, Secretary and Treasurer, all of Hickory; that Fidelity Cartons, Inc. (Shipper), the parent company and owner of the outstanding stock of O.K. Motor Lines, Inc., owns and has licensed in North Carolina, two tractors, two trailers and one straight truck and is currently

operating this equipment as a private carrier; that it desires to get out of the trucking business and if the authority sought is granted it will transfer ownership of all of the above mentioned equipment to O.K. Motor Lines, Inc.; that Carl D. Bunton, Jr., is President, and O.K. Whittington, is Secretary of Fidelity Cartons, Inc.; that O.K. Whittington is familiar with the rules and regulations of the Commission; that applicant is fully qualified, financially and otherwise, to acquire the authority sought and to conduct operations thereunder.

The application is supported by Carl D. Bunton, Jr., President, of the shipper corporation, who testified that the services of a contract carrier are needed because of his company's limited storage facilities, irregular or odd loading hours and specific delivery dates; that Applicant's equipment will be completely dedicated to shipper and at its disposal on a twenty-four hour basis.

Upon consideration of the application, evidence adduced and testimony of record, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That the proposed operations conform with the definition of a contract carrier as contained in the Public Utilities Act.

2. That the proposed operations will not unreasonably impair the efficient public service of carriers operating under certificates or rail carriers.

3. That the proposed service will not unreasonably impair the use of the highways by the general public.

4. That applicant is fit, willing and able to properly perform the service proposed as a contract carrier, and

5. That the proposed operations will be consistent with the public interest and the policy declared in G.S. 62-2 and G.S. 62-250 of the Public Utilities Act.

CONCLUSIONS

Based upon the record, the evidence presented in this case and the foregoing findings of fact, it is the conclusion of the Hearing Examiner that applicant has borne the burden of proof required by statute and that the authority sought should be granted.

IT IS, THEREFORE, ORDERED That a contract carrier permit be granted O.K. Motor Lines, Inc., P.O. Box 1391, Hickory, North Carolina, to engage in the transportation of Group 21, Folding Cartons as particularly described in Exhibit A attached hereto and made a part hereof.

IT IS FURTHER ORDERED That O.K. Motor Lines, Inc., file with this Commission its schedule of minimum rates and charges, true and correct copy of its contract, evidence of insurance coverage, list of equipment, designation of process agent and otherwise comply with the rules and regulations of this Commission and begin active operations under the authority herein granted within thirty (30) days from the date this order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1390 — O.K. Motor Lines, Inc.
P.O. Box 1391
Hickory, North Carolina

CONTRACT CARRIER AUTHORITY

EXHIBIT A — Transportation of Group 21, Folding Cartons, from Hickory, North Carolina, to points and places in North Carolina, under bilateral contract with Fidelity Cartons, Inc., Hickory, North Carolina.

DOCKET NO. T-277, SUB 11

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Old Dominion Freight Line for authority to transport Group 1, General Commodities, from Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points) ORDER

HEARD IN: The Hearing Room of the Commission, Old YMCA Building, Raleigh, North Carolina, on November 15, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

T.D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
P.O. Box 527, Raleigh, North Carolina

No Protestants.

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on September 28, 1967, by Old Dominion Freight Line wherein the applicant seeks authority to transport in intrastate commerce, as a regular route common carrier, general commodities, as referred to in Group 1 on page 2 of the application, over the following described route:

> Between Charlotte, North Carolina, and Charlotte, North Carolina, as follows: From Charlotte, North Carolina, over North Carolina Highway No. 49 to junction of North Carolina Highway 160, thence over North Carolina Highway 160 to junction of U.S. Highway 29 (at or near Charlotte), and return over same route, serving all intermediate points.

The Calendar of Hearings issued by the Commission on October 3, 1967, set this application for hearing at the time and place above stated. Said Calendar also set for hearing at said time and place the applications of seven other regular route common carriers also seeking the same authority, and upon motion of counsel for applicant, who stated that he was appearing for all of said applicants, the hearing of all of said applications was consolidated. Said counsel further stated that none of said applicants protested the granting of authority as sought by any other applicant and that each supported the application of the others. Counsel for applicant further requested that the same evidence be considered in support of all of the applications thus consolidated for hearing, which request was granted.

It was agreed that the Commission would take judicial notice of the existing authorities of the applicant, of the financial statements filed by it with the Commission, of the lists of its equipment on file with the Commission, of its prevailing tariffs, and of all other records and information contained in the files of the Commission pertaining to the applicant. The application itself and the attachments thereto were submitted and received into evidence as an affidavit.

Based upon the evidence adduced at the hearing and contained in the records and documents of which judicial notice is taken, the Commission makes the following

FINDINGS OF FACT

1. That the applicant now holds N.C. Intrastate Common Carrier Certificate No. C-97 and Interstate Common Carrier Certificate No. MC-107478; and that pursuant to said authorities it now operates as a regular route common carrier.

2. That Westinghouse Electric Corporation now has under construction a large manufacturing facility located in Steel Creek Township, Mecklenburg County, on N.C. Highway No. 160 near the City of Charlotte, North Carolina; that the plant site of said Westinghouse Electric Corporation is not on the route of any existing intrastate regular route common carrier and is beyond the service area of such carriers operating into Charlotte, North Carolina, although said plant site is situated on existing routes of interstate carriers and is within the territory of certain irregular route common carriers operating in North Carolina; that when said manufacturing facility is completed it is estimated that 50 percent of its incoming freight tonnage will consist of intrastate shipments transported by motor truck carrier; that said Westinghouse Electric Corporation has need of the intrastate transportation services of the various regular route intrastate common carriers operating into and from the Charlotte area and supports the application of applicant for the authority herein sought.

3. That the route herein sought serves not only the Westinghouse Electric Corporation plant site but also the industrial park area in the vicinity in which other industries are expected to locate and which will also have need of intrastate regular route common carrier motor freight service.

4. That the applicant is fit, willing and able to serve the route hereinabove mentioned and to provide, along with other applicants, the transportation needs that now exist and may hereafter arise along said route.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. That the public convenience and necessity will be served, both now and in the future, by the granting to applicant of the authority to serve the route designated in Exhibit A hereto attached.

2. That the granting of said authority will not be burdensome or duplicative of existing intrastate motor freight authorities and services.

3. That the applicant is able and willing to provide regular route intrastate motor freight transportation along said route.

IT IS, THEREFORE, ORDERED that applicant's intrastate Common Carrier Certificate No. C-97 be amended to include the authority set forth in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED that the applicant cause to be amended its tariff on file with this Commission so as to indicate to the shipping and receiving public its authorization to render service within the territory herein granted by this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-277, SUB 11

Old Dominion Freight Line
P.O. Box 1189
High Point, North Carolina

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of general commodities, except those requiring special equipment, over the following route:

From Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points.

DOCKET NO. T-208, SUB 27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Overnite Transportation Company for authority to transport Group 1, General Commodities, from Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points) ORDER

HEARD IN: The Hearing Room of the Commission, Old YMCA Building, Raleigh, North Carolina, on November 15, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

T.D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
P.O. Box 527, Raleigh, North Carolina

No Protestants.

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on September 28, 1967, by Overnite Transportation Company wherein the applicant seeks authority to transport in intrastate commerce, as a regular route common carrier, general commodities, as referred to in Group 1 on page 2 of the application, over the following described route:

> Between Charlotte, N.C., and Charlotte, N.C., from Charlotte over North Carolina Highway No. 49 to junction of North Carolina Highway No. 160, thence over North Carolina Highway 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points.

The Calendar of Hearings issued by the Commission on October 3, 1967, set this application for hearing at the time and place above stated. Said Calendar also set for hearing at said time and place the applications of seven other regular route common carriers also seeking the same authority, and upon motion of counsel for applicant, who stated that he was appearing for all of said applicants, the hearing of all of said applications was consolidated. Said counsel further stated that none of said applicants protested the granting of authority as sought by any other applicant and that each supported the application of the others. Counsel for applicant further requested that the same evidence be considered in support of all of the applications thus consolidated for hearing, which request was granted.

It was agreed that the Commission would take judicial notice of the existing authorities of the applicant, of the financial statements filed by it with the Commission, of the lists of its equipment on file with the Commission, of its prevailing tariffs, and of all other records and information contained in the files of the Commission pertaining to the applicant. The application itself and the attachments thereto were submitted and received into evidence as an affidavit.

Based upon the evidence adduced at the hearing and contained in the records and documents of which judicial notice is taken, the Commission makes the following

FINDINGS OF FACT

1. That the applicant now holds N.C. Intrastate Common Carrier Certificate No. C-6 and Interstate Common Carrier Certificate No. MC-109533; and that pursuant to said authorities it now operates as a regular route common carrier.

2. That Westinghouse Electric Corporation now has under construction a large manufacturing facility located in Steel Creek Township, Mecklenburg County, on N.C. Highway No. 160 near the City of Charlotte, North Carolina; that the plant site of said Westinghouse Electric Corporation is not on the route of any existing intrastate regular route common carrier and is beyond the service area of such carriers operating into Charlotte, North Carolina, although said plant site is situated on existing routes of interstate carriers and is within the territory of certain irregular route common carriers operating in North Carolina; that when said manufacturing facility is completed it is estimated that 50 percent of its incoming freight tonnage will consist of intrastate shipments transported by motor truck carrier; that said Westinghouse Electric Corporation has need of the intrastate transportation services of the various regular route intrastate common carriers operating into and from the Charlotte area and supports the application of applicant for the authority herein sought.

3. That the route herein sought serves not only the Westinghouse Electric Corporation plant site but also the industrial park area in the vicinity in which other industries are expected to locate and which will also have need of intrastate regular route common carrier motor freight service.

4. That the applicant is fit, willing and able to serve the route hereinabove mentioned and to provide, along with other applicants, the transportation needs that now exist and may hereafter arise along said route.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. That the public convenience and necessity will be served, both now and in the future, by the granting to applicant of the authority to serve the route designated in Exhibit A hereto attached.

2. That the granting of said authority will not be burdensome or duplicative of existing intrastate motor freight authorities and services.

3. That the applicant is able and willing to provide regular route intrastate motor freight transportation along said route.

IT IS, THEREFORE, ORDERED that applicant's intrastate Common Carrier Certificate No. C-6 be amended to include the authority set forth in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED that the applicant cause to be amended its tariff on file with this Commission so as to indicate to the shipping and receiving public its authorization to render service within the territory herein granted by this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-208, SUB 27

Overnite Transportation Company
1100 Commerce Road
Richmond, Virginia

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of general commodities, except those requiring special equipment, over the following route:

From Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points.

DOCKET NO. R-5, SUB 232

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Railway Express Agency, Incorporated, for authority to perform an intrastate substitute motor vehicle operation between certain points) ORDER GRANTING AUTHORITY

HEARD IN: The Offices of the Commission, Old YMCA Building, Raleigh, North Carolina, on Friday, June 9, 1967, at 9:30 a.m.

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah, and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

For the Applicant:

Mr. Robert C. Boozer
Ashmore & Boozer
Attorneys at Law
80 Broad Street, N.W.
Atlanta, Georgia 30303

Mr. R.N. Simms, Jr.
Simms & Simms
Attorneys at Law
408 Capital Club Building
P.O. Box 2776, Raleigh, North Carolina 27601

No Protestants.

ELLER, COMMISSIONER: By this application, upon which hearings were scheduled and held as captioned, Railway Express Agency, Incorporated, seeks authority to perform a regular route motor vehicle transportation service as follows:

Commodity and Territory Description: General Commodities, Including Class A and B explosives, moving in express service, over a regular route and serving specified points, as follows:

Between Lenoir, North Carolina, and Boone, North Carolina, serving the intermediate point of Blowing Rock, North Carolina, and from Lenoir over U.S. Highway 321 to Boone, and return over the same route.

RESTRICTIONS:

Service shall be limited to that which is auxiliary to or supplemental of express service of the Railway Express Agency;

Shipments shall be limited to those moving on through bills of lading or express receipts;

Service shall be limited to closed-door operations between regularly established express offices located at the named service points.

Upon the evidence adduced, we make the following

FINDINGS OF FACT

1. Applicant, Railway Express Agency, Incorporated, is duly authorized to and does transport in North Carolina any and all commodities, without limitation as to size or weight so long as it can be transported in a van or box car, including explosives of all kinds, live animals, perishables, drugs and medical supplies, radioactive materials, jewelry, coin and currency, securities and other valuable papers, etc. It provides all necessary care for those commodities, expedites their movement regardless of size, weight, or volume, and operates on regular schedules.

2. Applicant maintains some three hundred (300) offices distributed throughout North Carolina. Among the North Carolina points served by Applicant are Lenoir and Boone, with Blowing Rock as an intermediate point. Prior to April 9, 1967, Railway Express Agency, Incorporated, performed its line haul services to, from, and between these points under special contract utilizing a motor common carrier. On April 9, 1967, the motor common carrier exercised its option and cancelled its contract with Applicant. Since April 10, 1967, Applicant has performed this line haul service with its own equipment with temporary Commission permission.

3. Applicant has tested, found satisfactory, and now proposes to make permanent a schedule by which its northbound truck leaves Lenoir each afternoon at 2:30 p.m., arrives Boone at 3:40 p.m., departs Boone at 4:00 p.m., and arrives Lenoir at 5:10 p.m., serving Blowing Rock as an intermediate point in both directions. The Lenoir-Boone operation connects with the Agency's existing route authority at Lenoir and spreads from there over the state on existing authority. The route authority sought in this application involves only U.S. Highway 321 between Lenoir and Boone.

4. The basic service heretofore rendered by Railway Express Agency, Incorporated, at Lenoir, Boone, and Blowing Rock will not be reduced, reclassified, or otherwise materially or adversely affected by the operations here proposed and the authority here sought. The only change to be made is the substitution of the Agency's own trucks for those of the motor common carrier.

5. Applicant maintains a large fleet of trucks of varying types, has a large personnel force, and an extensive safety program, and is financially sound and otherwise able and qualified to perform all operations involved in the application.

CONCLUSIONS

1. Granting the route authority sought will not materially broaden, expand, or affect the authority and services already vested in Railway Express Agency, Incorporated.

2. Applicant has borne the burden of proof and has shown itself entitled to have its application approved and to have issued to it the authority sought.

Accordingly, IT IS ORDERED:

1. That the application of Railway Express Agency, Incorporated, in this docket be, and the same is hereby, approved.

2. That the certificate now held by Railway Express Agency, Incorporated, be, and the same is hereby, amended by the addition of a truck route as set forth on Exhibit A hereto attached and made a part hereof.

3. That Applicant shall make all necessary filings and begin operating under the authority herein granted within thirty (30) days of the date this order issues, at which time the temporary authority now held by Railway Express Agency, Incorporated, shall be of no further force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of June, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. R-5, Sub 232

Railway Express Agency, Incorporated
New York, New York

Regular Route Common Carrier

EXHIBIT A

Transportation of general commodities, including Class A and B Explosives, moving in express service, over a regular route and serving specified points, as follows:

Between Lenoir, North Carolina, and Boone, North Carolina, serving the intermediate point of Blowing Rock, North Carolina,

From Lenoir over U.S. Highway 321 to Boone, and return over the same route.

RESTRICTIONS:

Service shall be limited to that which is auxiliary to or supplemental of express service of the Railway Express Agency;

Shipments shall be limited to those moving on through bills of lading or express receipts;

Service shall be limited to closed-door operations between regularly established express offices located at the named service points.

DOCKET NO. T-1303, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Ronald K. Jessup, d/b/a Ronald's Trailer Transport, 1210 W. Sedgefield Drive, Winston-Salem, North Carolina) RECOMMENDED ORDER

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, on October 4, 1967, at 10:00 a.m.

BEFORE: E.A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

A.W. Flynn, Jr.
York, Boyd & Flynn
Attorneys at Law
P.O. Box 127, Greensboro, North Carolina

For the Protestants:

Earl W. Vaughn
Vaughn & Harrington
Attorneys at Law
109 West Washington Street
Leaksville, North Carolina
For: Morgan Drive Away, Inc.
Pop's Trailer Towing Co., Inc.

Charles B. Morris, Jr.
Jordan, Morris & Hoke
Attorneys at Law
P.O. Box 1606, Raleigh, North Carolina
For: Transit Homes, Inc.
National Trailer Convoy, Inc.

HUGHES, EXAMINER: By application filed with the Commission on June 16, 1967, Ronald K. Jessup, d/b/a Ronald's Trailer Transport (Applicant), 1210 W. Sedgefield Drive, Winston-Salem, North Carolina, seeks authority to engage in the transportation of Group 21, House Trailers or Mobile Homes, within the following territory:

"Between all points in the counties of Watauga, Ashe, Avery, Wilkes, Yadkin, Davie, Davidson, Guilford, Randolph and Rockingham, North Carolina, and from the above named ten counties to all points in the State of North Carolina, and from all points in the State of North Carolina to the above named counties."

Notice of the filing of the application together with a description of the rights sought and setting the hearing thereon for August 15, 1967, was published in the Commission's Calender of Hearings issued on June 15, 1967. The hearing, at the request of parties, was subsequently postponed to the captioned time and place. Protests to the granting of the application were filed within apt time by Morgan Drive Away, Inc., Pop's Trailer Towing Co., Inc., Transit Homes, Inc., and National Trailer Convoy, Inc.

All parties were present and represented by counsel.

Evidence presented by Applicant tends to show that he presently holds Common Carrier Certificate No. C-880 from this Commission which authorizes the transportation of house trailers or mobile homes (a) between all points and places within the Counties of Forsyth, Stokes and Surry, (b) from all points within the Counties of Forsyth, Stokes and Surry to all points and places in North Carolina, and (c) from all points and places in North Carolina to all points and places in the Counties of Forsyth, Stokes and Surry; that he holds interstate authority which permits operations into several states; that he has three (3) trucks suitable for the transportation of mobile homes, one 1966 automobile used in the business as a pilot car and will acquire additional equipment when and if necessary; that, in addition to his wife and himself, he has two (2) full-time employees and one (1) part-time employee; that he has a net worth in the amount of some $10,000; that he is familiar with and in compliance with the safety rules and regulations of the Commission; and that he advertises his service in the yellow pages of the telephone directories, sends advertisements to mobile home parks in his area and has advertised on the radio and in the Winston-Salem newspapers. In addition, Applicant offered several public witnesses, two of whom testified relative to their dissatisfaction with the service from Greensboro (Guilford County). Another witness, owner of a trailer court from Randleman (Randolph County), supports the application and related difficulties which he has had with one of protestant's drivers. Another witness, owner of a mobile home, from Banner Elk (Avery County) offered testimony relative to his inability to get his mobile home moved by an existing authorized carrier (not one of the protestants) who had promised to perform the service on a particular date. This witness recited that on the appointed day he stayed home from work and was finally told by the carrier that his truck was broken down and his mechanic was drunk. He stayed out of work another day upon the carrier's assurance that he would be there and when the carrier did not appear, he tried to find someone else and

finally had to move the trailer himself. Additional testimony favorable to the applicant was given by a mobile home owner from Watauga County who testified that he was unable to get his house trailer moved by a regulated carrier and finally got a man in Boone without authority to perform the service.

Applicant offered no evidence in support of his application to serve the Counties of Ashe, Wilkes, Yadkin, Davie, Davidson, and Rockingham.

Protestants offered four (4) witnesses, all company employees, each of whose testimony was designed to show that the territory applied for is being adequately served by existing carriers and that the authority sought by Applicant is not needed. Said witnesses offered testimony relative to the location of protestants' terminals within the State, the number of trucks licensed by protestants to operate in North Carolina, the extent of their solicitation through advertising in yellow pages of telephone directories, etc., and of their general willingness to furnish all of the service needed from the area applied for. Witnesses for three of the protestants appeared to have no knowledge of the amount of traffic handled by their respective companies from the involved territory and except for Pop's Trailer Towing Co., Inc., whose home office and terminal is in Greensboro, it appears that the only terminal of other protestants located in said territory is that of National Trailer Convoy, Inc., at Randleman in Randolph County, which terminal has been established since the filing of the application herein.

Upon consideration of the application, the testimony of record and the evidence adduced, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That proof has not been established that a public demand and need exists for the proposed service in the Counties of Ashe, Wilkes, Yadkin, Davie, Davidson, and Rockingham and that the application to the extent that it proposes service within said counties should be denied.

2. That public convenience and necessity requires the proposed service between points in the Counties of Watauga, Avery, Guilford, and Randolph, and from said four counties to all points in the State of North Carolina, and from all points in the State of North Carolina to said counties.

3. That the applicant is fit, willing and able to properly perform the proposed service, and

4. That the applicant is solvent and financially able to furnish adequate service on a continuing basis.

CONCLUSIONS

Upon consideration of the evidence offered and the facts found, the Hearing Examiner is of the opinion and concludes that Applicant has satisfied the burden of proof required for the granting of the authority described in Finding of Fact No. 2 and that the application as limited therein should be granted.

IT IS, THEREFORE, ORDERED That the application of Ronald K. Jessup, d/b/a Ronald's Trailer Transport, 1210 W. Sedgefield Drive, Winston-Salem, North Carolina, be, and the same is, hereby granted (in part) and that Applicant's certificate be amended to include the authority particularly described in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED That the application in all other respects be, and it is, hereby denied.

IT IS FURTHER ORDERED That Applicant comply with the rules and regulations of the Commission and institute operations under the authority herein acquired within thirty (30) days from the date that this order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of October, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1303, SUB 1

Ronald K. Jessup, d/b/a
Ronald's Trailer Transport
1210 W. Sedgefield Drive
Winston-Salem, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

The transportation of Group 21, House Trailers or Mobile Homes, over irregular routes as follows:

Between points in the Counties of Watauga, Avery, Guilford, and Randolph, and from said four counties to all points in the State of North Carolina, and from all points in the State of North Carolina to said counties.

DOCKET NO. T-1367, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Schwerman Trucking Co. for authority to transport dry cement, in bulk and in bags, as a contract carrier under contract with Ideal Cement Company from the storage terminals of Ideal Cement Company located at or near Charlotte, Greensboro and Fayetteville, North Carolina, to all points and places throughout the State and return of refused or rejected shipments	ORDER GRANTING CONTRACT CARRIER AUTHORITY

HEARD IN: The Hearing Room of the Commission, Old YMCA Building, Raleigh, North Carolina, on October 18, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina

No Protestants.

BIGGS, COMMISSIONER: By application filed with the North Carolina Utilities Commission on August 14, 1967, the applicant sought contract carrier authority to engage in the transportation of dry cement, in bulk and in bags, from storage terminals of Ideal Cement Company located at or near the Cities of Charlotte, Greensboro and Fayetteville, North Carolina, to points and places throughout the State of North Carolina and return of refused or rejected shipments. At the time said application was filed, the applicant applied for temporary authority to engage in such transportation, either as a common carrier or contract carrier pending the consideration of its application for permanent authority to engage in such transportation. On August 16, 1967, applicant amended its original application to limit its request for temporary authority to that of a contract carrier and filed with the Commission a copy of an agreement between it and Ideal Cement Company covering the transportation of dry cement from the points mentioned in the application and the certified statement of Paul S. Barnett, General Traffic Manager of Ideal Cement Company, setting forth reasons why the temporary authority should be granted. On August 18, 1967, an order was entered granting

to applicant the temporary authority to operate as a contract carrier as specified in its application as amended.

This cause thereafter came on to be heard on October 18, 1967, at 10:00 a.m., as set forth in the Calendar of Hearings issued by the Commission on August 15, 1967, upon the applicant's original application, at which hearing applicant offered the testimony of Ralph L. Schmidt, Assistant to the Vice President of the Southern Division of Schwerman Trucking Co., who testified from a prepared statement and identified certain exhibits appended to his said prepared statement marked Appendix A, Item I; Appendix A, Item II; Appendix B; Appendix C; Appendix D; Appendix E; Appendix F; Appendix G, Item I; Appendix G, Item II; Appendix H; Appendix I; Appendix J; Appendix K; and Appendix L. Said appendixes were thereafter received into evidence. The applicant also offered the testimony of Paul S. Barnett, General Traffic Manager of Ideal Cement Company, who testified concerning the need of his company for the transportation which applicant herein seeks authority to provide, and who presented and identified a written agreement dated August 16, 1967, by and between Ideal Cement Company and Schwerman Trucking Co., copy of which agreement is already on file in the records of this Commission. It was stated, with the counsel for the applicant in agreement, that the Commission will take judicial notice of all documents filed by the applicant with the Commission in connection with the determination of its petition for temporary authority and with its operations thereunder.

Based on the evidence adduced at the hearing and contained within the documents of which judicial notice is taken, the Commission makes the following

FINDINGS OF FACT

1. That the applicant is a duly organized and existing corporation, with its principal offices in the State of Wisconsin, that is engaged in the transporting of diversified products, in bulk, in 45 States of the Union, including the State of North Carolina, said operations being conducted pursuant to various interstate and intrastate authorities.

2. That among the intrastate authorities held by applicant is included Contract Carrier Permit No. P-195 issued by this Commission on July 27, 1966, granting to applicant the authority to engage in the transportation of dry cement, in bulk and in bags, under a continuing contract with Ideal Cement Company, from Asheville, North Carolina, to all points and places in North Carolina and refused or rejected shipments on return, under which authority the applicant has operated since said date.

3. That Ideal Cement Company manufactures dry cement at Castle Hayne, North Carolina, which is transported in bulk by rail from said manufacturing facility to storage and

distribution points located at or near the Cities of Greensboro, Charlotte and Fayetteville, North Carolina; that prior to August, 1967, said Ideal Cement Company transported its product from these storage and distribution points by its own motor trucks, but that it has now, for reasons sufficient unto itself, ceased transporting this product with its own equipment; that said Ideal Cement Company now has a need for transporting said dry cement to various points in North Carolina by some motor truck carrier other than itself; that the equipment needed for the transportation of such dry cement, in bulk and in bags, is a special type of equipment that is not suitable for transporting other commodities and which is not owned or made available by existing motor carriers in this State other than applicant.

4. That applicant owns and has available in this State for the exclusive use of said Ideal Cement Company the specialized equipment needed for the transporting of dry cement, in bulk and in bags, from the storage and distribution points located at or near the Cities of Greensboro, Charlotte and Fayetteville, North Carolina, and is able to afford to said cement company the motor truck transportation needed by it at these points.

5. That Ideal Cement Company and the applicant have contracted in writing for the applicant to transport for said Ideal Cement Company a minimum of 1,000 barrels per year of dry cement from each of its storage and distribution facilities located at or near the Cities of Charlotte, Fayetteville and Greensboro, North Carolina.

6. That the applicant corporation is in sound financial condition and is ready, willing and able to provide the equipment and labor necessary to meet the transportation needs of Ideal Cement Company as set forth in said agreement between said company and the applicant.

CONCLUSIONS

1. That under the application filed herein by applicant on August 14, 1967, the applicant proposes to engage in the transportation of dry cement, in bulk and in bags, from storage terminals of Ideal Cement Company located at or near Charlotte, Greensboro and Fayetteville, North Carolina, to points and places throughout the State of North Carolina and return of refused and rejected shipments, such transportation to be provided by applicant as a contract carrier under an individual written contract with Ideal Cement Company.

2. That the agreement by and between applicant and Ideal Cement Company dated August 16, 1967, copy of which is on file in the records of this Commission, provides for the transportation of the commodity mentioned in the application in accordance with the terms and conditions of the

application and complies with statutes governing contract carriers.

3. That the evidence adduced at the hearing of this cause demonstrates a need for the transportation that applicant proposes to furnish under its said contract with Ideal Cement Company, which need cannot be effectively filled and met by other certificated carriers now operating in this State.

4. That the Commission is of the opinion and concludes from the evidence that a permit should be granted to the applicant to render said proposed transportation service.

Based upon the foregoing Findings and Conclusions the Commission enters the following

IT IS, THEREFORE, ORDERED that Schwerman Trucking Co., 611 South 28th Street, Milwaukee, Wisconsin, be granted a contract carrier permit under Chapter 62 of the General Statutes of North Carolina in accordance with Exhibit A hereto attached.

IT IS FURTHER ORDERED that said permit is issued subject to all the rules and regulations of this Commission and of applicable provisions of law pertaining to and governing the operation of contract carriers by motor vehicle, including requirements pertaining to insurance coverage and record keeping, and no operations hereunder shall be commenced until such rules, regulations and legal requirements have been complied with.

IT IS FURTHER ORDERED that the schedule of rates filed by applicant pursuant to the order granting temporary authority to provide the transportation hereby authorized, issued by this Commission on August 18, 1967, is hereby deemed to be filed as the schedule of rates applicable to operations under this authority, and the Commission takes no action at this time with reference to said filing, which is hereby permitted to remain in effect without interruption.

IT IS FURTHER ORDERED that the order granting temporary authority issued herein on August 18, 1967, is canceled as of the effectiveness of this order, and that applicant's future contract carrier operations from the points herein designated shall hereafter be in all respects pursuant to the authority of this order.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of Otober, 1967.

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-1367, SUB 2

Schwerman Trucking Co.
611 South 28th Street
Milwaukee, Wisconsin

Contract Carrier Authority

EXHIBIT A — Transportation of dry cement, in bulk and in bags, under contract with Ideal Cement Company, 821 Seventeenth Street, Denver, Colorado, from storage terminals of said Ideal Cement Company located at or near the Cities of Charlotte, Greensboro and Fayetteville, North Carolina, to points and places throughout the State of North Carolina and return of refused or rejected shipments.

DOCKET NO. T-1382

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Spruill Transit Co., Inc., for contract carrier authority to transport petroleum products, in bulk in tank trucks, under contract with Spruill Oil Company, Inc., and Bertie-Martin Oil Company, Inc., from all originating terminals in North Carolina to points and places in the Counties of Northampton, Halifax, Hertford, Bertie, Gates, Martin and Washington	) ORDER) GRANTING) CONTRACT) CARRIER) PERMIT

HEARD IN: Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on February 2, 1967, at 10:00 a.m.

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah and Thomas R. Eller, Jr.

APPEARANCES:

For the Applicant:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina

For the Protestants:

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina
For: Petroleum Transportation, Inc.
East Coast Transport Company, Incorporated
H & P Transit Company
M & M Tank Lines, Inc.

WORTHINGTON, COMMISSIONER: Application was filed with the North Carolina Utilities Commission (Commission) on December 2, 1966, by Spruill Transport Co., Inc. (applicant), seeking authority to transport petroleum and petroleum products, in bulk in tank trucks, as a contract carrier between originating terminals in North Carolina and points and places in the Counties of Northampton, Halifax, Hertford, Bertie, Gates, Martin and Washington under contract with Spruill Oil Company, Inc., and Bertie-Martin Oil Company, Inc.

Hearing was scheduled on the application and notice of time and place of hearing given in the Calendar of Hearings issued by the Commission on December 15, 1966. No protest was filed within the time allowed for protesting, but certain certificated common carriers holding authority to transport petroleum products appeared at the hearing held in the Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on February 2, 1967, and were permitted to become parties to the proceeding and protest.

The applicant and protestants were represented by counsel. The applicant offered testimony and exhibits. The protestants offered no testimony but did offer by reference their respective operating authorities, most recent annual reports made to the Commission and equipment lists.

From the evidence offered the Commission makes the following

FINDINGS OF FACT

1. Applicant is a North Carolina corporation, is financially able, and is fit and willing to provide the proposed service.

2. Spruill Oil Company, Inc., and Bertie-Martin Oil Company, Inc., are both North Carolina corporations and are engaged in the sale and distribution of petroleum and petroleum products.

3. With very minor exceptions the stockholders, management and control of Spruill Oil Company, Inc., Bertie-Martin Oil Company, Inc., and the applicant, Spruill Transport Co., Inc., are one and the same.

4. Spruill Oil Company, Inc., and Bertie-Martin Oil Company, Inc., each own one unit of equipment for over-the-road transportation of petroleum products in bulk, such units consisting of tractor and tanker or tank trailer. These two companies have used these pieces of equipment for the transportation of their petroleum product needs for some time, and the great bulk of the transportation has been in interstate commerce from Norfolk, Virginia, to the places of business of the two corporations in North Carolina.

5. In late 1966 the officers and stockholders of the two oil companies formed the applicant corporation and have entered into written contract with the applicant for the transportation in bulk of their petroleum product needs.

6. The petroleum needs and use of the two contracting oil companies that move in bulk in tank trucks have been confined to gasoline, kerosene, fuel oils Nos. 1 and 2 and diesel fuel.

7. The proposed operation conforms with the definition of a contract carrier, will not unreasonably impair the efficient public service of carriers operating under certificates or rail carriers, will not unreasonably impair the use of the highways and will be consistent with the public interest.

CONCLUSIONS

Applicant is a duly formed North Carolina corporation. Its ownership and officers are, with few exceptions, the same as the ownership and officers of the two contracting oil companies, Spruill Oil Company, Inc., and Bertie-Martin Oil Company, Inc., with which it has entered into a contract for the transportation of petroleum products, in bulk in tank trucks. Each of the two oil companies owns one unit of equipment and has been transporting its own petroleum needs. In this transportation there have been times when the unit of equipment owned by one of the oil companies was used to transport petroleum products for the other oil company. The two corporations are, of course, separate entities, and due to this fact the officers of the two corporations formed the applicant corporation for the purpose of their transportation needs and in order to be sure that no violation of transportation regulations would be committed.

Written contract has been entered into between applicant and the two oil companies. Applicant is authorized to issue $100,000 in common stock, $10,000 of which has been subscribed to and paid for. Applicant proposes for the time being to lease from each of the oil companies the unit of equipment now owned by it and operate same as leased equipment pending purchase thereof at a later date.

Only a small amount of the petroleum products used by the two oil companies has ever been transported by common carriers. They have always provided their own private transportation service. The authorization to applicant to transport the needs of the two companies will not deprive any common carrier of any appreciable amount of business, if any, and will not add any additional burden to the highways of the State.

We conclude from applicant's testimony that it proposes to transport gasoline, kerosene, fuel oils Nos. 1 and 2 and diesel fuel in intrastate commerce from originating terminals at Selma and Wilmington to points and places in

the named counties under contract entered into between it and Spruill Oil Company, Inc., and Bertie-Martin Oil Company, Inc.

We conclude also that applicant should be granted a contract carrier permit authorizing the transportation of petroleum products, in bulk in tank trucks, as hereinafter specified.

IT IS, THEREFORE, ORDERED that Spruill Transport Co., Inc., be and it is hereby granted contract carrier permit authorizing the transportation of petroleum products in accordance with Exhibit A hereto attached.

IT IS FURTHER ORDERED that service under this authority shall begin only when applicant has filed tariff schedules of minimum rates and charges, evidence of insurance coverage and otherwise complied with the rules and regulations of the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 8th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-1382 Spruill Transport Co., Inc.
Windsor, North Carolina

Contract Carrier Authority

EXHIBIT A Transportation of gasoline, kerosene, fuel oils Nos. 1 and 2 and diesel fuel, in bulk in tank trucks, under bilateral written contract with Spruill Oil Company, Inc., and Bertie-Martin Oil Company, Inc., from originating terminals at Selma, North Carolina, and Wilmington, North Carolina, to points and places in the Counties of Northampton, Halifax, Hertford, Bertie, Gates, Martin and Washington.

DOCKET NO. T-480, SUB 26

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Thurston Motor Lines, Inc., for authority to transport Group 1, General Commodities, from Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points) ORDER

HEARD IN: The Hearing Room of the Commission, Old YMCA Building, Raleigh, North Carolina, on November 15, 1967, at 10:00 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

T.D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
P.O. Box 527, Raleigh, North Carolina

No Protestants.

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on September 28, 1967, by Thurston Motor Lines, Inc., wherein the applicant seeks authority to transport in intrastate commerce, as a regular route common carrier, general commodities, as referred to in Group 1 on page 2 of the application, over the following described route:

> From Charlotte, North Carolina, over North Carolina Highway No. 49 to junction of North Carolina Highway 160, thence over North Carolina Highway 160 to junction of U.S. Highway 29 (at or near Charlotte), and return over same route, serving all intermediate points.

The Calendar of Hearings issued by the Commission on October 3, 1967, set this application for hearing at the time and place above stated. Said Calendar also set for hearing at said time and place the applications of seven other regular route common carriers also seeking the same authority, and upon motion of counsel for applicant, who stated that he was appearing for all of said applicants, the hearing of all of said applications was consolidated. Said counsel further stated that none of said applicants protested the granting of authority as sought by any other applicant and that each supported the application of the others. Counsel for applicant further requested that the same evidence be considered in support of all of the applications thus consolidated for hearing, which request was granted.

It was agreed that the Commission would take judicial notice of the existing authorities of the applicant, of the financial statements filed by it with the Commission, of the lists of its equipment on file with the Commission, of its prevailing tariffs, and of all other records and information contained in the files of the Commission pertaining to the applicant. The application itself and the attachments thereto were submitted and received into evidence as an affidavit.

Based upon the evidence adduced at the hearing and contained in the records and documents of which judicial notice is taken, the Commission makes the following

FINDINGS OF FACT

1. That the applicant now holds N.C. Intrastate Common Carrier Certificate No. C-26 and Interstate Common Carrier Certificate No. MC-105457; and that pursuant to said authorities it now operates as a regular route common carrier.

2. That Westinghouse Electric Corporation now has under construction a large manufacturing facility located in Steel Creek Township, Mecklenburg County, on N.C. Highway No. 160 near the City of Charlotte, North Carolina; that the plant site of said Westinghouse Electric Corporation is not on the route of any existing intrastate regular route common carrier and is beyond the service area of such carriers operating into Charlotte, North Carolina, although said plant site is situated on existing routes of interstate carriers and is within the territory of certain irregular route common carriers operating in North Carolina; that when said manufacturing facility is completed it is estimated that 50 percent of its incoming freight tonnage will consist of intrastate shipments transported by motor truck carrier; that said Westinghouse Electric Corporation has need of the intrastate transportation services of the various regular route intrastate common carriers operating into and from the Charlotte area and supports the application of applicant for the authority herein sought.

3. That the route herein sought serves not only the Westinghouse Electric Corporation plant site but also the industrial park area in the vicinity in which other industries are expected to locate and which will also have need of intrastate regular route common carrier motor freight service.

4. That the applicant is fit, willing and able to serve the route hereinabove mentioned and to provide, along with other applicants, the transportation needs that now exist and may hereafter arise along said route.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. That the public convenience and necessity will be served, both now and in the future, by the granting to applicant of the authority to serve the route designated in Exhibit A hereto attached.

2. That the granting of said authority will not be burdensome or duplicative of existing intrastate motor freight authorities and services.

3. That the applicant is able and willing to provide regular route intrastate motor freight transportation along said route.

IT IS, THEREFORE, ORDERED that applicant's intrastate Common Carrier Certificate No. C-26 be amended to include the authority set forth in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED that the applicant cause to be amended its tariff on file with this Commission so as to indicate to the shipping and receiving public its authorization to render service within the territory herein granted by this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-480, SUB 26

Thurston Motor Lines, Inc.
601 Johnson Road
Charlotte, North Carolina

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of general commodities, except those requiring special equipment, over the following route:

From Charlotte, North Carolina, over N.C. Highway No. 49 to junction of N.C. Highway No. 160, thence over N.C. Highway No. 160 to junction of U.S. Highway No. 29 (at or near Charlotte), and return over same route, serving all intermediate points.

DOCKET NO. T-1260, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Failure of Gerald B. Traywick, d/b/a Jerry Traywick Trucking Co., 147 Depot Street, Albemarle, North Carolina, to keep appropriate insurance on file) ORDER REVOKING CERTIFICATE

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on November 17, 1967, at 2:00 p.m.

BEFORE: Chairman Harry T. Westcott and Commissioners John W. McDevitt and M. Alexander Biggs, Jr.

APPEARANCES:

For Respondent:

Neither present nor represented by counsel.

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Raleigh, North Carolina

BY THE COMMISSION: On October 19, 1967, the Commission issued an order suspending the operating authority of Gerald B. Traywick, d/b/a Jerry Traywick Trucking Co. (Respondent), 147 Depot Street, Albemarle, N.C., by reason of his failure to keep appropriate insurance on file with the Commission as required by G.S. 62-268. Said order further required said Respondent to appear before the Utilities Commission, Old YMCA Building, corner of Edenton and Wilmington Streets, Raleigh, North Carolina, at 2:00 p.m., on Friday, November 17, 1967, and show cause, if any he had, why his operating authority should not be revoked for willful failure to maintain appropriate security for the protection of the public as required by G.S. 62-268. Said order was personally served on Gerald B. Traywick on October 27, 1967.

Pursuant to the provisions of said order, the matter came on for hearing for the purpose set out therein on November 17, 1967, when and where the Respondent was not present, nor was anyone present in his behalf. A representative of the Motor Transportation Department of the Commission testified as to what the Department's files disclosed in regard to the insurance records of Respondent.

Based upon the pertinent records of the Commission, of which it takes judicial notice, the Respondent's file and the competent evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That pursuant to the provisions of an order in this docket under date of June 30, 1967, the Respondent is the holder of Certificate No. C-864 in which he is authorized to transport, as an irregular route common carrier, certain specified commodities between all points and places in North Carolina.

2. That the Department of Motor Transportation of the Commission is the custodian of the motor carrier insurance records of the Commission, including the records of Respondent's insurance; that the Commission was notified on September 12, 1967, that the cargo insurance of Respondent

would be cancelled, effective October 12, 1967; that the Director of the Department of Transportation of the Commission notified the Respondent of said cancellation by letter dated September 12, 1967, with carbon copy to Respondent's insurance agent; that nothing having been done to keep said insurance in force, a show cause order was issued October 19, 1967, suspending the operating authority of Respondent and directing Respondent to appear in the offices of the Commission at captioned time and place and show cause, if any he had, why his authority should not be cancelled by reason of his failure to keep insurance in force as required by law, and that said order was served on Respondent by an inspector of the Commission on October 27, 1967.

3. That at the hearing on November 17, 1967, Respondent did not appear, nor did anyone appear in his behalf and that as of the date of the hearing, Respondent did not have on file with the Commission evidence of appropriate cargo security for the protection of the public as required by G.S. 62-268.

Based on the foregoing findings of fact, the Commission makes the following

CONCLUSIONS

The evidence and records of the Commission tend to show that Certificate No. C-864 was originally issued to Traywick Trucking Co., Inc., by order of the Commission dated February 6, 1963; that Gerald B. Traywick was president and general manager of Traywick Trucking Co., Inc.; that subsequent to the granting of said authority, the name of the corporation was changed with the approval of the Commission by order dated March 14, 1965, to T & G Transit, Inc., and that said certificate was transferred from T & G Transit, Inc., to Respondent by order of the Commission dated June 30, 1967. The records of the Commission further tend to show that since the issuance of said certificate by order dated February 6, 1963, there have been a constant series of show cause orders suspending the authority for failure to keep appropriate insurance in force and for failure to keep tariffs on file, up to and including the present. As of this date, the Respondent has neither filed evidence of cargo insurance, nor communicated with the Commission concerning same.

G.S. 62-268 provides:

"Security for protection of public. - No certificate, permit or broker's license shall be issued or remain in force until the applicant shall have procured and filed with the Commission such security bond, insurance or self-insurance for the protection of the public as the Commission shall by regulation require."

Under the aforesaid findings and the applicable law, the Commission concludes that Respondent has willfully failed to comply with G.S. 62-268 and that Certificate No. C-864, heretofore issued to Respondent should be cancelled and revoked.

IT IS, THEREFORE, ORDERED That Certificate No. C-864, heretofore issued to Gerald B. Traywick, d/b/a Jerry Traywick Trucking Co., 147 Depot Street, Albemarle, North Carolina, be, and the same is, hereby revoked and cancelled.

IT IS FURTHER ORDERED That a copy of this order be transmitted to said Respondent and a copy sent to the North Carolina Department of Motor Vehicles.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-1317, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of United Parcel Service, Inc. (An Ohio Corporation), Room 850, 643 West 43rd Street, New York, N.Y. 10036, for a Certificate of Public Convenience and Necessity to Operate as a Common Carrier in Intrastate Commerce) ORDER

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on December 6, 7, 8, 9, 13 and 14, 1966

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners Sam O. Worthington, Clarence H. Noah, Thomas R. Eller, Jr., and John W. McDevitt

APPEARANCES:

For the Applicant:

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For the Protestants:

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For: Overnite Transportation Company
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For: Queen City Coach Company
Smoky Mountain Stages, Inc.
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For: Carolina Delivery Service Company, Inc.
Citizens Express, Inc.
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For: Seashore Transportation Company

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For: Southern Coach Company

WESTCOTT, CHAIRMAN: This cause came on for hearing pursuant to application filed by the above-captioned

applicant on July 1, 1966. The matter was originally scheduled for hearing on October 18, 1966, and for good cause continued. In its application applicant seeks to operate in intrastate commerce as a common carrier, and as such seeks authority to transport packages or articles, subject to the following restrictions:

1. No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment.

2. No service shall be provided in the transportation of packages of articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day.

Applicant conducts a similar service to that for which application is herein made, in both interstate and intrastate commerce, in other states as described in the record of evidence in this proceeding. It has been granted authority by the Interstate Commerce Commission to conduct such a transportation business in interstate commerce in North Carolina; and an affiliate of applicant, United Parcel Service, Inc. (a North Carolina corporation), has been issued a contract carrier permit by the North Carolina Utilities Commission to engage in the transportation of property as herein proposed as a contract carrier.

Testimony of Elmer J. Nesholm, Vice President and a member of the Board of Directors of United Parcel Service, Inc. (an Ohio corporation), the instant applicant, is, among other things, to the effect that: "We would expect to discontinue the contract carrier service and to surrender the permit to this Commission for cancellation if this application for common carrier service is granted." (Tr. p. 22). Also, Exhibit C of the application sets forth: "If the common carrier certificate sought herein is granted, applicant will cause its subsidiary, United Parcel Service, Inc. (a North Carolina corporation), to surrender for cancellation contract carrier permit No. 168 which was issued to it by this Commission."

In support of the application, in addition to two company witnesses, applicant offered the testimony of 35 public witnesses and tendered 43 public witnesses. The testimony of the witnesses who orally testified and who were tendered may be classified as follows:

1. Those who have contracts with the North Carolina corporation who desire common carrier transportation service;

2. Those who have been denied a contract by the North Carolina corporation and who desire the services of the applicant as a common carrier; and

3. Those who now use parcel post for small shipments and who desire the services of applicant as a common carrier.

Protestants offered evidence of four witnesses, representatives of motor bus carriers who have been authorized by this Commission to transport passengers, baggage, mail and express over the routes covered by their respective franchises. The evidence offered by the protestants' witnesses tends to show that should the application in this cause be granted, protestants would stand to lose a portion of the package freight which now constitutes an important part of their annual gross revenues.

Protesting motor freight carriers did not offer witnesses in support of their respective protests. Offered and received in evidence by reference were their respective operating authorities, lists of equipment, and latest annual reports, each on file with this Commission. Attorney for Carolina Delivery Service Company, Inc., Citizens Express, Inc., and Observer Transportation Company offered the following motion:

> "...I would like to move the dismissal of the application in the instant case on the basis of the same conclusions as to the lack of any need for additional authority as set forth in the Commission's order issued September 7, 1965, in Docket No. T-92, Sub 2, relating to the application of Carolina Delivery Service Company, Inc.; and in the alternative, gentlemen, I offer another motion, that if an order is issued, granting to United Parcel Service, Inc., the authority they have herein applied for, that the proceeding in Docket No. T-92, Sub 2, be reopened, its original order rescinded and an order entered therein, granting to Carolina Delivery Service Company the authority which it sought in that proceeding." (Tr. p. 5).

This motion was at the time denied. It may be well to point out here that the applicant in Docket No. T-92, Sub 2, may file such application as it is advised, after which it will be given an oppportunity to present such evidence as it may have in support thereof.

Applicant further offered documentary and oral testimony relating to its financial ability to perform the proposed service; its plan of operation; a description of its equipment, and its experience in the transportation business.

In consideration of the evidence adduced, the Commission is of the opinion and finds that the applicant has shown to the satisfaction of the Commission the following

FINDINGS OF FACT

1. That public convenience and necessity require the proposed service in addition to existing authorized transportation service.

2. That the applicant is fit, willing and able to properly perform the proposed service.

3. That the applicant is solvent, financially able, and otherwise qualified to furnish adequate service on a continuing basis.

CONCLUSIONS

G.S. 62-262 among other things provides that if the application is for a certificate, the burden of proof shall be upon the applicant to show to the satisfaction of the Commission those facts hereinabove shown as findings. The record of evidence in this case is conclusive that there is a need for transportation of small package freight, in addition to the service being rendered by existing common carriers, to and from points and places in North Carolina. The testimony in support of the application tends to show that the principal diversion of traffic will be from parcel post service to the service proposed to be rendered by applicant as a common carrier. We recognize the concern of motor bus carriers, and while it is conceivable that some diversion of package freight may occur, there is no concrete evidence of record to support such a finding. But to the contrary, there is evidence of a public demand and need for the service applicant proposes to render as a common carrier.

It is our opinion and we conclude that to provide ways and means for adequate, economical and efficient service to the communites of this State by motor carrier will tend to effectuate the declared policy of the motor carrier transportation law. It is, therefore, our opinion and we hold that the applicant in this cause should be granted a certificate of convenience and necessity to operate as a common carrier of property in intrastate commerce in the manner hereinafter set out in Exhibit B.

WHEREFORE, IT IS ORDERED That United Parcel Service, Inc. (an Ohio corporation), Room 850, 643 West 43rd Street, New York, N.Y. 10036, be and it is hereby authorized to operate as a common carrier of property by motor vehicle in intrastate commerce, as particularly set out in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED That applicant file with this Commission the appropriate insurance (property damage and personal liability), the appropriate tariffs, lists of equipment, registration of such equipment to be used, and otherwise comply with the rules and regulations of this

Commission applicable to common carriers of property operating within the State of North Carolina.

IT IS FURTHER ORDERED That when applicant has complied with the Commission's rules and regulations applicable to the operation of motor carriers of property in intrastate commerce, a formal certificate be issued to said applicant in accordance with the findings and order herein.

IT IS FURTHER ORDERED That a copy of this order be transmitted to the applicant, to the attorney for the applicant, and to each attorney for the protestants appearing in this cause.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1317, SUB 3

United Parcel Service, Inc.
(An Ohio Corporation)
Room 850, 643 West 43rd Street
New York, N.Y. 10036

Irregular Route Common Carrier Authority

EXHIBIT B

The transportation of packages or articles, subject to the following restrictions, over irregular routes, between all points and places within the State of North Carolina:

1. No service shall be rendered in the transportation of any package or article weighing more than 50 pounds or exceeding 108 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment.

2. No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any one day.

DOCKET NO. T-1317, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Petition of United Parcel Service, Inc. (an Ohio corporation), for approval of dissolution of United Parcel Service, Inc. (a North Carolina corporation), cancellation of permit and for authority to deviate from Commission's Rules	) ORDER CANCELLING) PERMIT AND) APPROVING) OPERATING) PROCEDURES

BY THE COMMISSION: This proceeding comes before the Commission on the Petition filed by United Parcel Service, Inc. (an Ohio corporation), on April 7, 1967, as amended on April 28, 1967, requesting approval of the dissolution of its subsidiary corporation, United Parcel Service, Inc. (a North Carolina corporation), the cancellation of Contract Carrier Permit No. 168 issued to said North Carolina subsidiary corporation, and for approval of certain carrier operating procedures of the petitioner differing in certain respects from Commission Rules R2-40 relating to bills of lading, Rule R2-41 relating to load sheets, and Rule R2-18 relating to C.O.D. shipments.

The Petition recites that the North Carolina subsidiary corporation, United Parcel Service, Inc. (a North Carolina corporation), will file Articles of Dissolution with the Secretary of State, and the public records of the Secretary of State's office confirm that said Articles of Dissolution were filed on April 7, 1967. Under the procedures of the Secretary of State's office, the dissolution of the North Carolina corporation will be complete upon receipt of clearance from the Department of Revenue relating to North Carolina taxes and filing of a certificate of completed liquidation showing consummation of dissolution of the corporation. (G.S. 55-121)

The applicant in this proceeding, United Parcel Service, Inc. (an Ohio corporation), has been issued a certificate of public convenience and necessity in Docket No. T-1317, Sub 3, as an irregular route common carrier in the transportation of packages and articles limited to certain sizes and to weight not exceeding an aggregate of more than 100 pounds, between all points and places in the State of North Carolina. This certificate of public convenience and necessity was issued after public hearing in which an extensive record was made and in which numerous protestants participated, setting forth in detail the method of operations proposed to be conducted by the applicant, United Parcel Service, Inc. (an Ohio corporation).

The contract carrier service performed by the North Carolina subsidiary, United Parcel Service, Inc. (a North Carolina corporation), was also fully set forth in the public record in Docket No. T-1317, Sub 1, in which control of the operating authority under Permit No. P-168 was

acquired by the parent Ohio corporation through the purchase of the stock of said North Carolina corporation under its then name of Caro-Line Transportation, Inc., from the prior stockholder, Leaseway Transportation Corporation. This application to change control of Permit No. P-168 was also heard at public hearing with extensive record and numerous protestants. It was appealed to the Superior Court and to the Supreme Court, where the Order approving the change of control was affirmed by the Supreme Court in Utilities Commission v. Coach Company, 269 N.C. 717 (1967).

From the record in these two proceedings and from the Petition in this proceeding, it is clear that the operation now to be performed in North Carolina by the parent Ohio corporation under its certificate as a common carrier will serve the public and the shippers heretofore served by the North Carolina subsidiary as a contract carrier under Permit No. P-168, and that the carrier operations will be conducted for the public under substantially the same procedures as heretofore conducted under individual contracts, with such necessary modifications as are required to conform with the Rules and Regulations for common carriers.

Based upon the records in the above two proceedings, it appears that the services of the North Carolina corporation as a contract carrier are no longer required, and under procedures set forth in the common carrier case, service to the contract shippers is now being conducted by the Ohio parent corporation as a common carrier. The filing of Articles of Dissolution by the North Carolina subsidiary has placed in motion the legal procedure for termination of the existence of this corporation under North Carolina law, and the Commission finds no reason to disapprove the consummation of such dissolution.

For the same reasons and based upon the same records in the above two described proceedings, it is now apparent that service under Contract Carrier Permit No. 168 is no longer performed and that the service heretofore performed under said certificate by the North Carolina corporation is now being conducted by the Ohio corporation as a common carrier. It was clearly spread upon the record in the common carrier hearing that the contract carrier permit was to be surrendered and cancelled if the common carrier certificate was granted. It is further clear that service under said Contract Carrier Permit No. P-168 is now dormant and it would serve no useful purpose for it to remain outstanding and to become a possible object of further transfer or change of control. Under G.S. 62-112(b) it is provided that franchises, including contract carrier permits, may be revoked, in the discretion of the Commission, upon application of the holder thereof. The contracts for shipment have been terminated and the contract shippers are now being served by the parent common carrier corporation. The Commission, therefore, finds and concludes that said contract carrier authority under Permit No. P-168 should be cancelled and the permit revoked.

Finally, the petitioner seeks authority to deviate from Commission Rule R2-18, Rule R2-41 and Rule R2-40. The petitioner recites in support of this request its method of operation as a small package delivery common carrier which includes procedures it contends to be reasonable procedures in lieu of said rules, and the reasons why it contends that strict conformity with said rules would require a substantial change in its normal and standard procedures followed in other states, and cause undue and unnecessary expense upon its operations as a small package carrier. The rule changes requested and the procedures proposed for approval are as follows:

Rule R2-40, Bill of lading. In lieu of the standard motor carrier bill of lading the applicant seeks to use a procedure in which the various shipments are listed and accounted for on three documents, to wit, a pick up sheet, the package labels and a delivery receipt.

The procedures described are more fully shown in the transcript of testimony in Docket No. T-1317, Sub 3, and appear sufficient to document to the shipper and the receiver the accountability for and disposition of the shipment.

Rule R2-41, Load sheets. In lieu of the driver load sheets required under this rule, the petitioner contends that its method of pick up and delivery and handling as a package carrier with statewide authority, and no interchange permits the pick up sheet, package labels and delivery receipt to serve in lieu of the purpose normally served by a load sheet.

Rule R2-18, C.O.D. shipments. The petitioner requests in Lieu of the requirement of collecting cash, certified or cashier's check or money order on C.O.D. shipments, that it be permitted to accept the personal check of the C.O.D. receiver. The petitioner contends that its experience throughout the United States in the same business indicates the burden of requiring cash, certified or cashier's check or money order far exceeds the protection sought for the shipper in accepting only cash. The tariff provides that the shipper may give contrary instructions, and it appears that the delay and expense accompanying requirement of cash payment can be modified under these circumstances for a small package carrier.

Based upon the foregoing matters and records referred to the Commission concludes that the relief from Commission Rules R2-18, R2-40 and R2-41 as prayed for in the Petition, as amended, is reasonable under the circumstances and should be granted upon the condition that procedures proposed in lieu of the Commission's Rules be set forth in the carrier's tariffs.

WHEREFORE, IT IS ORDERED:

1. That the dissolution of United Parcel Service, Inc. (a North Carolina corporation), is hereby approved.

2. That Contract Carrier Permit No. P-168 is hereby cancelled and any copy of said permit now outstanding shall be surrendered to the Commission for cancellation.

3. That the petitioner, United Parcel Service, Inc. (an Ohio corporation), is hereby authorized to observe the procedures set forth in the Petition of using pick up sheets, package labels and delivery receipts in lieu of bills of lading and load sheets required under Commission Rule R2-40 and Rule R2-41, and the petitioner is further authorized to accept personal checks in lieu of cash, certified or cashier's check or money order, on C.O.D. shipments under Rule R2-18, upon the filing with the Commission of appropriate provisions of the petitioner's tariff showing said procedures and modifications to be observed in lieu of the Commission Rules referred to.

4. The petitioner is authorized to file the provisions of its tariff above referred to upon one day's notice.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1381

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for approval of lease of a portion of Common Carrier Certificate No. C-393 from Warren Brothers, Inc., d/b/a Warren's Transfer, 330 Dupont Circle, Raleigh, North Carolina, to Carolina Crane Corporation, 1119 North West Street, Raleigh, North Carolina	)	ORDER APPROVING LEASE

ELLER, COMMISSIONER: This is a joint application, as captioned. The Calendar of Hearings issued on December 1, 1966, in which notice of the application and date of hearing thereon was published, carried the following notation:

> If no protests are filed by 5:00 p.m., Friday, December 30, 1966, this case will be decided on the basis of the application, the documentary evidence attached thereto and the records of the Commission pertaining thereto, and no hearing will be held.

We received no protests or motions to intervene and, therefore, have decided this matter on the verified pleadings and the Commission's relevant records.

We make the following

FINDINGS OF FACT

1. Applicant, Warren Brothers, Inc., d/b/a Warren's Transfer, 330 Dupont Circle, Raleigh, North Carolina (hereinafter referred to as Warren's Transfer), is a corporation operating under the motor freight common carrier authority contained in North Carolina Utilities Commission Certificate No. C-393.

2. Applicant Lessee, Carolina Crane Corporation, 1119 North West Street, Raleigh, North Carolina, is a corporation having assets totalling $243,654.77. Lessee has been engaged in rigging and hauling within commercial zones of various cities and towns for two and one-half years.

3. Warren's Transfer (Lessor) and Carolina Crane Corporation (Lessee) have made and entered into a lease agreement, subject to the approval of the North Carolina Utilities Commission, involving the operating authority contained in paragraph (3) of the Lessor's Certificate No. C-393:

"(3) Transportation of heavy machinery from Wake County to points and places throughout the State and from points and places throughout the State to Wake County."

The lease agreement provides that the Lessee will pay $100.00 per month or ten percent (10%) of the gross revenue, whichever is greater, for the privilege of exercising the authority contained in paragraph (3) of Lessor's Certificate No. C-393. The lease agreement shall be for one year with the right of either party, upon sixty (60) days' notice, to terminate the same; however, it shall be renewed from year to year unless terminated prior to the termination date specified therein.

4. Warren's Transfer has filed affidavit that there are no debts or claims against it for gross receipts and/or other taxes due the state, for wages due employees, for unremitted c.o.d. collections due shippers, for loss or damage of goods transported or received for transportation, for overcharges on property transported, or for interline accounts due carriers.

CONCLUSIONS

1. Carolina Crane Corporation is fit, willing, ready, and able, financially and otherwise, to lease and thereafter on a continuing basis to provide the services required by the authority contained in paragraph (3) of Warren's Transfer's Certificate No. C-393.

2. The proposed lease transfer is reasonably justified by the public convenience and necessity.

Accordingly, IT IS ORDERED:

1. That the application in this docket be, and it hereby is, approved.

2. That Applicant, Warren's Transfer, be, and hereby is, authorized to lease to Carolina Crane Corporation, and Applicant, Carolina Crane Corporation, is authorized to lease and thereafter operate under the authority contained in paragraph (3) of North Carolina Utilities Commission Motor Freight Common Carrier Certificate No. C-393, to wit:

"(3) Transportation of heavy machinery from Wake County to points and places throughout the State and from points and places throughout the State to Wake County."

3. That Warren's Transfer will provide no services under that portion of its authority hereinabove stated while it is under lease to Carolina Crane Corporation and that Carolina Crane Corporation will operate the authority with all the rights, duties, and privileges thereunto pertaining and pursuant to the rules and regulations of the North Carolina Utilities Commission. This order shall constitute all necessary authority for the lease transfer and for Carolina Crane Corporation's qualification and operation under said authority.

4. That before entering upon operation of the authority herein transferred by lease, but not more than thirty (30) days from the date this order issues, Carolina Crane Corporation shall post with this Commission its tariffs containing its rates, charges, and classification, its evidence of security for the protection of the traveling public, its list of equipment used or to be used in the operation, and shall otherwise comply with all laws and regulations governing such common carrier operations in this state.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-645, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Proposed transfer of authority contained in Certificate No. C-498 from James C. Cope, d/b/a Cope Trucking Company, Asheville, North Carolina, to Fredrickson Motor Express Corporation, Charlotte, North Carolina	)))))	ORDER APPROVING FRANCHISE LEASE

By application filed with the Commission on February 15, 1967, approval is sought by Fredrickson Motor Express Corporation, 3400 North Graham Street, Charlotte, North Carolina, a North Carolina Corporation (Fredrickson), as Transferee, and James C. Cope, d/b/a Cope Trucking Company (Cope), Asheville, North Carolina, as Transferor, for the sale and transfer of the operating rights contained in Certificate No. C-498 from said transferor to said transferee. Said application will be set for hearing and notice duly given in the Commission's Calendar of Truck Hearings. By petition filed simultaneously with said application, parties seek approval of a temporary lease of said operating rights from Cope, as Lessor, to Fredrickson, as Lessee, pending determination of the sale and transfer application. The terms of the proposed lease are fully set out in the lease agreement attached to the petition.

Petitioners represent, among other things, that James C. Cope, owner and operator of Cope Trucking Company, has suffered a heart attack; that he is presently unable to attend to his affairs as the operator of the intrastate rights held in his name and that it is necessary for the franchise lease to become effective immediately in order that service to the public may be maintained and the properties of the lessor preserved.

Upon consideration thereof, the Commission is of the opinion and finds that said proposed lease of authority will not be inconsistent with the public interest and should be approved.

IT IS, THEREFORE, ORDERED That the lease agreement made and entered into on January 6, 1967, by and between James C. Cope, d/b/a Cope Trucking Company, as lessor, and Fredrickson Motor Express Corporation, a North Carolina Corporation, as lessee, be, and the same is, hereby approved for the period during the pendency before the Commission of the proceeding involving the permanent sale and transfer of the authority heretofore issued by this Commission to transferor as contained in Certificate No. C-498.

IT IS FURTHER ORDERED That Fredrickson Motor Express Corporation comply with the rules and regulations of this

Commission and begin operations the authority herein leased within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1367, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Proposed transfer of authority contained in Certificate No. C-301 from Petroleum Transit Company, Incorporated, Lumberton, North Carolina, to Schwerman Trucking Co., Milwaukee, Wisconsin	)	ORDER APPROVING FRANCHISE LEASE

By application filed with the Commission on May 31, 1967, approval is sought by Schwerman Trucking Co. (Schwerman), 611 South 28th Street, Milwaukee, Wisconsin, a Wisconsin Corporation, as Transferee, and Petroleum Transit Company, Incorporated (Petroleum), as Transferor, for the sale and transfer of the operating rights contained in Certificate No. C-301 from said Transferor to said Transferee. Said application was set for hearing and notice duly given in the Commission's Calendar of Truck Hearings.

By application filed subsequent to said application, Schwerman seeks approval of a temporary lease of said operating rights from Petroleum, as Lessor, to Schwerman, as Lessee, pending determination of the sale and transfer application. The terms of the proposed lease are fully set out in the lease agreement attached to the application.

Applicant represents, among other things, that similar applications have been filed with the Interstate Commerce Commission and it appears that the Interstate Commerce Commission has approved the lease, and that the interruption of the operation pending the consideration of the North Carolina and several other Commissions would irreparably damage the service to the public and the employees and those who depend upon Petroleum Transit Company, Incorporated, for transportation as well as for jobs.

Upon consideration thereof, the Commission is of the opinion and finds that said proposed lease of authority will not be inconsistent with the public interest and should be approved.

IT IS, THEREFORE, ORDERED That the lease agreement made and entered into on April 10, 1967, by and between Petroleum

Transit Company, Incorporated, a North Carolina Corporation, as Lessor, and Schwerman Trucking Co., a Wisconsin Corporation, as Lessee, be, and the same is, hereby approved for the period during the pendency before the Commission of the proceeding involving the permanent sale and transfer of the authority contained in Certificate No. C-301, said authority being more fully described in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Schwerman Trucking Co. comply with the rules and regulations of this Commission and institute operations under the authority herein leased within thirty (30) days from the date of this order.

IT IS FURTHER ORDERED That Schwerman Trucking Co. notify the Commission in writing immediately upon commencement of operations the date operations are commended under the franchise lease agreement herein approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of July, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1367, SUB 1

Schwerman Trucking Co.
611 South 28th Street
Milwaukee, Wisconsin

Irregular Route Common Carrier

EXHIBIT B

(1) Transportation of petroleum and petroleum products, in bulk in tank trucks, over irregular routes, from existing originating terminals at or near Wilmington, Morehead City, Beaufort, River Terminal, Thrift, Friendship, Salisbury, Apex, Fayetteville and Selma to points and places throughout the State, and of gasoline, kerosene, fuel oils and naphthas in bulk in tank trucks, over irregular routes, between all points and places within the territory it is now authorized to make deliveries from presently authorized originating terminals.

(2) Transportation of liquefied petroleum gas, in bulk, in tank trucks from all originating terminals of such liquefied petroleum gas to points within the territory described in above paragraph (1).

(3) Transportation of tobacco, unmanufactured, leaf or scrap, including stems, cooperage stock, sheets, baskets and hogsheads, over irregular routes, from Whiteville and Fairmont to Durham, and from Whiteville, Fairmont and Tabor City to Winston-Salem.

(4) Transportation of fertilizer and fertilizer materials, over irregular routes, from Wilmington to Laurinburg, Johns, Ashley Heights and Lumberton.

(5) Transportation of plywood, over irregular routes, from Maxton to Henderson.

(6) Transportation of petroleum oil in containers, over irregular routes, from Wilmington to Whiteville, Lumberton and Red Springs.

(7) Group 22, Liquid Asphalt, in bulk, in special equipment over irregular routes between all points and places in the State of North Carolina.

(8) Transportation of liquid fertilizer in bulk in tank trucks over irregular routes between all points and places in the State of North Carolina on and east of U.S. Highway 21.

LIMITATION: Truck Load Only.

(9) Transportation of dry cement, in bulk and in bags, from Wilmington, North Carolina, and points and places within a radius of fifteen (15) miles thereof, to points and places throughout the State.

(10) The transportation of phosphate products, including phosphorus chloride, phosphorus sulfide, red phosphorus, phosphorus oxide, phosphoric acids, calcium phosphates, ammonium phosphate, sulphuric acid, normal super phosphate, enriched super phosphate, triple super phosphate, concentrated phosphoric acid, sodium phosphates and other phosphate derivative products or phosphate contained products, in bulk, in tank and/or hopper vehicles,

from the TexasGulf Sulphur Company plant site or sites in Beaufort County, North Carolina and from points and places within a five (5) mile air-line radius thereof, to all points and places in North Carolina and refused or unclaimed products on return.

DOCKET NO. T-127, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition for approval of merger of A.F. Comer Transport Service, Incorporated, Durham, North Carolina, and Kenan Transport Company, Incorporated, Durham, North Carolina, with the surviving corporation to be Kenan Transport Company, Incorporated	ORDER ALLOWING MERGER

FULLER, COMMISSIONER: This is a joint petition by Kenan Transport Company, Incorporated (Kenan), and A.F. Comer Transport Service, Incorporated (Comer), for approval of merger of Comer into Kenan, the surviving corporation to be known as Kenan Transport Company, Incorporated, with headquarters in Durham. The Commission scheduled hearing on the application and gave public notice thereof in its calendar issued August 1, 1967. The notice contained this proviso:

"NOTE: If no protests are filed by 5:00 p.m., Friday, October 6, 1967, this case will be decided on the basis of the application, the documentary evidence attached thereto and the records of the Commission pertaining thereto, and no hearing will be held."

There being no protests, the petition was considered in accordance with the proviso. Based upon the verified petition and exhibits attached thereto and upon the annual reports of Kenan and Comer, and the certified records and documents of Petitioners on file with the Commission, we make the following

FINDINGS OF FACT

1. Petitioner, Kenan Transport Company, Incorporated, is a duly organized and existing corporation under the laws of the State of North Carolina with principal offices in Durham, North Carolina, and is a duly certificated and operating motor common carrier of property in intrastate commerce in North Carolina.

2. Petitioner, A.F. Comer Transport Service, Incorporated, is a duly organized and existing corporation under the laws of the State of North Carolina with principal

offices in Durham, North Carolina, and is a duly certificated and operating motor common carrier of property in intrastate commerce in North Carolina.

3. By order of the Utilities Commission of June 26, 1964, in Docket No. T-201, Sub 9, the purchase of all of the outstanding capital stock of Comer by Kenan was approved and made. Kenan now owns all of the common capital stock of Comer and operates it as a wholly-owned subsidiary corporation.

4. Kenan is able financially and otherwise to effect the merger and conduct the operations of the surviving corporation in intrastate commerce without diminishing or jeopardizing the services heretofore offered the public by the two corporations separately.

5. The terms and conditions of the transactions as set forth in the petition for approval of the merger and the documents of record are just and reasonable and not adverse to the public convenience and necessity.

6. No additional fixed charges will be incurred as a result of the merger and some operating economies are likely to result.

7. The petition of Kenan and Comer to the Interstate Commerce Commission for merger of said two corporations as affects their interstate operations was approved by the Interstate Commerce Commission in Docket No. MC-F-9770 by order of date August 3, 1967, copy of which is in the files of the Commission.

8. The owners of the stock of Kenan and the proportions thereof are:

Frank H. Kenan	- 13 shares -	86.6%
Henry Emerson	- 1 share -	6.7%
Thomas S. Kenan	- 1 share -	6.7%

9. In addition to Petitioners, a further corporation chartered in the State of Virginia under the name of A.F. Comer Transport Service, Incorporated, and operating as a common carrier of property in intrastate commerce in Virginia is owned by Comer, but it is not a party to this proceeding. This corporation is not by this action to be merged into the surviving corporation, but its stock is to be reissued in the name of Kenan.

10. Following merger, Kenan will continue the same scope and type of operations now being conducted by Kenan and Comer; the managing officers of Kenan are experienced in the operation of motor transportation, this being solely for lawful intercorporate purposes.

CONCLUSIONS

The 1963 Public Utilities Act applies the following standard to any stock transfer which might result in a transfer of control of a franchise in North Carolina:

"G.S. 62-111. Transfers of franchises; mergers, consolidations and combinations of public utilities. - (a) No franchise now existing or hereafter issued under the provisions of this chapter other than a franchise for motor carriers of passengers shall be sold, assigned, pledged or transferred, nor shall control thereof be changed through stock transfer or otherwise, or any rights thereunder leased, nor shall any merger or combination affecting any public utility be made through acquisition or control by stock purchase or otherwise, except after application to and written approval by the Commission, which approval shall be given if justified by the public convenience and necessity. Provided, that the above provisions shall not apply to regular trading in listed securities on recognized markets."

This section provides that the Commission shall approve the merger if justified by public convenience and necessity. The corporate structure of Kenan and Comer is a matter of private property law except to the extent that it is affected by the public interest as a public utility. Unless the merger of the two corporations by their private boards of directors adversely affects, or will tend adversely to affect, the rates or services of the two utilities, the public convenience and necessity is not affected. Our investigation of this proposal discloses no grounds for denying the petition and discloses no way in which the public interest of the shipping and using public in North Carolina will be materially or adversely affected.

The Commission is, therefore, of the opinion and concludes that the public convenience and necessity will not be adversely affected by the merger and that the merger proposal meets the test as prescribed by G.S. 62-111 and the rules and regulations of the Commission.

IT IS, THEREFORE, ORDERED:

1. That the merger of the operating rights and property of Comer into Kenan for ownership, management, and operation through the transaction as contained in the petition be, and it hereby is, approved and authorized; and that, upon consummation of the transaction, Kenan is authorized to operate under the operating rights granted to Kenan and Comer by the North Carolina Utilities Commission, except insofar as said rights duplicate the rights hereinbefore issued to Kenan and presently embraced in Certificate No. C-245; and that said rights, except insofar as they duplicate the rights held by Kenan as embraced in A.F. Comer Transport Service, Incorporated, Certificate No. C-136, be

embraced in Certificate No. C-245 in the name of Kenan Transport Company, Incorporated.

2. That the parties are allowed until March 30, 1968, to consummate this transaction and unless consummation is completed by said date, this order shall be of no further force and effect. The parties shall forthwith comply with the provisions of the rules and regulations of the North Carolina Utilities Commission and the requirements prescribed thereunder; and shall confirm in writing to the Commission consummation of the transaction when made, such filing to include the date on which the consummation was made and a balance sheet of the surviving corporation.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 77

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Suspension and Investigation of Proposed Changes in Rates, Rules and Regulations, Applicable on Shipments of Pipe, Iron or Steel, Wrought or Cast, and Boards or Sheets of Plywood, Veneer or Wood, Built-Up or Combined, Moving Between Points in North Carolina, in Truckloads, via Lowther Trucking Company, Scheduled to Become Effective June 28, 1965	)	ORDER DISCONTINUING PROCEEDING
And	)	
General Investigation of Intrastate Rates, Charges, Rules and Regulations for Account of all Carriers Transporting Pipe, Iron or Steel, Wrought or Cast, and Boards or Sheets of Plywood, Veneer or Wood, Built-Up or Combined, in Truckloads, Moving Between points in North Carolina	)	

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, on August 4, 1965, and March 30 and 31, 1966

BEFORE: Commissioners Sam O. Worthington (presiding), Clarence H. Noah and Thomas R. Eller, Jr.

APPEARANCES:

For the Respondents:

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Hasty and Kratt
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Charlotte, North Carolina

For the Protestants - Respondents:

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Bailey, Dixon and Wooten
Insurance Building
Raleigh, North Carolina

For the Intervenors:

James H. Gordon
Formica Corporation
4614 Spring Grove Avenue
Cincinnati, Ohio 45232
For: Formica Corporation

R.L. Dover
L.B. Foster Company
P.O. Box 367, Doraville, Georgia
For: L.B. Foster Company

M.G. Chesson
Weyerhaeuser Company
Plymouth, North Carolina
For: The Weyerhaeuser Company

For the Commission Staff:

Edward B. Hipp
General Counsel
P.O. Box 991, Raleigh, North Carolina

WORTHINGTON, COMMISSIONER: This investigation was instituted by the Commission following the filing, on statutory notice, of a tariff publication by Motor Carriers Traffic Association, Inc., Agent, Greensboro, N.C., designated as Supplement 21 to its North Carolina Intrastate Tariff No. 3-D, NCUC No. 33, which proposed to make effective June 28, 1965, certain changes in rates, rules, regulations and stopping-in-transit arrangements then published in named tariff for account of Lowther Trucking Company (Lowther).

The involved tariff schedule proposed to restrict all rates then published on pipe, cast or wrought, plywood, veneer, and related commodities and stopping-in-transit for partial unloading arrangements applicable in connection therewith, not to apply via, or in connection with, Lowther Trucking Company, and proposed for account that carrier the

simultaneous establishment of revised rates, rules, regulations and stopping-in-transit arrangements for application on shipments of named commodities moving via Lowther Trucking Company in North Carolina intrastate commerce in flat-bed trailers.

Protest and request for suspension was filed June 18, 1965, by Counsel, for and on behalf of the North Carolina Motor Carriers Association, Inc., Agent, Raleigh, N.C., and certain of its member carriers (Protestants), and it being of the opinion that the proposed tariff changes affected the rights and interest of the public, the Commission, by its order of June 23, 1965, suspended and deferred the application of the proposed tariff changes, instituted an investigation with view of determining the justness and reasonableness thereof and assigned the matter for hearing on August 4, 1965.

On the date of the hearing, J. Wesley Lowther, President and Treasurer of Lowther Trucking Company, testified concerning the application of the suspended tariff schedule. At the conclusion of his examination it was suggested that all parties, including Protestants, if given a reasonable amount of time, might be able to arrive at a tarrif agreeable to all and submit it to the Commission. Whereupon, the Commission recessed the hearing to be resumed at the end of 30 days, the specific date and place to be named by the Commission.

The parties submitted a schedule (herein called the "Compromise Basis") on September 7, 1965, along with a petition that said basis be approved and allowed to become effective on short notice, the parties asserting they believed that said basis was just and reasonable to the shipping public and compensatory to the carriers.

The schedule involved herein, published for and on behalf of Lowther and suspended by Order of June 23, 1965, was canceled, effective December 28, 1965, in compliance with provisions of the Commission's Order dated December 9, 1965. That order also notified all parties that the Commission might later order the canceled tariff to be made effective, might approve the compromise basis submitted, or find it necessary to prescribe such other tariff schedules of rates and charges as found by it to be just, reasonable and proper. The matter was assigned for further hearing on February 1, 1966, continued to a later date by mesne continuances.

By Order of February 18, 1966, the Commission broadened the issues in the proceeding to include a general investigation into and concerning all intrastate rates and charges, and rules and regulations in connection therewith, applying on, or proposed to be made applicable, for the transportation of pipe, iron or steel, cast or wrought, plywood, veneer or wood, built-up or combined, and boards or sheets, including the so-called "compromise basis" of rates

which the Order authorized to be made effective on one (1) day's notice. The three North Carolina Publishing Agents and their member carriers participating in the rates on involved commodities were made Respondents in the proceeding and the burden of proof placed upon them of showing that their rates on the commodities hereinbefore named, and rules and regulations in connection therewith are just, reasonable and otherwise lawful. The matter was assigned for hearing on March 30, 1966.

The "compromise basis" of rates became effective for account of carriers desiring to participate therein on February 24, 1966, through publication made in Item 600235 of Supplement 40 to North Carolina Motor Carriers Association Tariff No. 10-D, NCUC No. 76 and Items 99051, 99052, 99052.5 and Index Nos. 30118 and 30119 of Supplement 40 to Motor Carriers Traffic Association Tariff No. 3-D, NCUC No. 33. The rates in the NCMCA tariff are applicable for account of Barnes Truck Line, Inc., Edmac Trucking Company, Everett Motor Line, Hill's Truck Line, Rabon Transfer and Wilson Trucking Company. The rates in MCTA Tariff 3 series are applicable only via Colonial Motor Freight Line, W. Everette Truck Line, and Lowther Trucking Company.

The scales of rates were published subject to the regular stopping-in-transit for partial unloading rules which provide that a maximum of three stops will be permitted; that the stop-off point or points must be directly intermediate to the final destination via the direct route over which operations are generally conducted; for line haul charges to be based on observing the published rates to the stop-off point or points or to the final destination, whichever is the higher, and for a stop charge of ten cents per 100 pounds on the weight of the freight unloaded, subject to a minimum charge of $6.97, said charge to be assessed in addition to all other charges.

At the hearing on March 30, 1966, J. Wesley Lowther summarized the testimony he had offered in the hearing August 4, 1965, in support of his proposed adjustment. Mr. Lowther also explained the nature of concessions he had made with view of removing the objections of protestant carriers which resulted in the compromise agreement hereinbefore mentioned.

The adjustment published for account Lowther which was suspended and finally canceled provided for rates on pipe, iron or steel, cast or wrought, and on plywood, veneer, and related commodities, that were subject to a truckload minimum weight of 40,000 pounds and designed to produce revenue of 60 cents per loaded mile for distances of 100, 120, 140, 160, 180, 200 and 240 miles. A blanket rate of 15 cents per 100 pounds was published for application on all shipments moving 100 miles or less. The scale of rates was subjected to the use of actual highway distances and

restricted in its application to apply only on shipments transported in flat-bed trailers.

The rules provided in connection with Lowther's scale set forth the conditions under which shipments could be stopped in transit for partial unloading. The number of stops was not restricted, stops could be made at points not intermediate to the final destination and the rules did not include any maximum circuity provisions. Charges were to be based on the actual highway distance via the stop-off point or points, plus a charge of $15.00 per stop.

Mr. Lowther explained that in conference with protestant carriers in an effort to remove their principal objections and reach an agreement that was reasonably satisfactory to all parties he made concessions that resulted in the compromise basis. That basis provides for scales of rates on the commodities herein involved subject to minimum weights of 34,000 and 40,000 pounds. The 40,000 pound rates are somewhat higher than Lowther's original proposal for distances up to 210 miles. For that distance the rates under both scales are the same and for distances over 220 miles the compromise scale subject to the 40,000 pound minimum is somewhat lower.

James H. Gordon, Traffic Manager of the Formica Company, Cincinnati, Ohio, with a flakeboard operation at Farmville, North Carolina, testified that the sales pattern of his company in North Carolina was built up around a 36,000 pound weight factor, that terms were F.O.B. Farmville, no freight allowed. Specific point to point commodity rates subject to a minimum of 36,000 pounds are now published from Farmville to various points in the State. Mr. Gordon's principal point was that the rates were satisfactory to his company and, as he believed, to the carriers transporting the traffic, were serving a useful purpose, and he did not want to see them disturbed.

The Staff introduced exhibits and offered testimony to show that a multiplicity of rates, reflecting different bases and rate levels, subject to varying minimum rates and tariff provisions are published for application on truckload or volume shipments of plywood, veneer, and similar commodities, moving between points in North Carolina Intrastate Commerce. Exhibits were also introduced showing details of the point to point commodity rates published on cast iron pipe from Charlotte, N.C., subject to minimum weights of 20,000 and 30,000 pounds. The exhibits also showed level of the rates and other pertinent information.

M.G. Chesson testified concerning the rates on plywood available on truckload shipments made by the Weyerhaeuser Company from its plants at Plymouth and Jacksonville, N.C. Mr. Chesson expressed some dissatisfaction with the compromise basis but upon inquiry stated he was no worse off with those rates than he was before they became effective.

The witness for L.B. Foster Company, Doraville, Ga., testified that his company handled steel pipe of all sizes, dimensions and lengths and that it has recently established a district warehouse in Charlotte for the serving of its customers in North Carolina and South Carolina. The witness was concerned because the compromise basis has application on cast and wrought iron pipe but does not apply on other kinds of pipe or other articles in the manufactured iron or steel list. This testimony concerned matters beyond the scope of the proceeding.

The witnesses for Respondent motor carriers offered testimony in justification of the numerous scales of rates applicable on plywood and related commodities which reflect different levels, are subject to varying minimum weights, are governed by different tariff provisions, some of which, considering only the highway distances, appear, on the face of things, to be discriminatory. The carriers maintain that there are many facts such as market competition, terrain, different values for different types of board, different loading and unloading conditions, etc., which make the rates just, reasonable and otherwise lawful. They also maintain that they are satisfactory to the shipping and receiving public and are serving a useful purpose.

Selby Ray Wright, President, Wright Motor Lines, Asheville, N.C., who hauls a specialty board from Black Mountain to points and places in the State, offered testimony that tends to show that the cost of transporting traffic in the western North Carolina mountains is substantially greater than the cost of transporting similar traffic for like distances in more level terrain. The testimony of this witness was very persuasive.

Carrier witnesses had very little to say concerning the justness and reasonableness of the specific commodity rates published for application on shipments of cast iron pipe and fittings from Charlotte, which are subject to truckload minimum weights of 20,000 and 30,000 pounds. It was brought out, however, that the rates have been in effect for many years and were allowed to remain in effect in January of 1961, when North Carolina intrastate rates were revised in compliance with this Commission's Order of October 5, 1960, in Docket No. T-825, Sub 20.

Since the hearing and, in fact, effective February 16, 1967, in Index 30128, Supplement 30 to Motor Carriers Traffic Association Tariff 3-D, NCUC No. 35, the compromise basis of rates, insofar as it is applicable on plywood, veneer, built-up wood and related commodities, was made subject to special stopping-in-transit to partially unload rules substantially the same as originally published for account of Lowther Trucking Company, as hereinbefore named and enumerated.

FINDINGS OF FACT

(1) That the rates, rules and regulations published for account Lowther Trucking Company for application on truckload shipments of pipe, iron or steel, cast or wrought and plywood, veneer, built-up wood and related commodities which were suspended by the Commission and investigation instituted have been canceled from the tariff.

(2) That the so-called "Compromise Basis" of rates, as hereinbefore described and enumerated and more specifically set forth in the Appendix hereto attached, as permitted by the Commission's order dated December 28, 1965, for application, and now in effect, on involved traffic, are just and reasonable.

(3) That the numerous point-to-point rates and scales of rates reflecting different levels, subject to varying minimum weights and having different and varied application have been and now are published on plywood, veneer and related commodities, and are not unjust or unlawful.

(4) That the specific commodity rates on cast or wrought iron pipe and fittings in effect for many years from Charlotte to points and places within the State are not unjust and unreasonable.

(5) That articles in the manufactured iron and steel list, other than pipe, iron or steel, cast or wrought, are not involved in this proceeding.

(6) That the rates, rules and regulations, and practices involved herein have not been shown by the record in this proceeding to be unjust, unreasonable, unduly discriminatory or otherwise unlawful.

CONCLUSION

That the order of investigation should be vacated and the proceeding discontinued.

IT IS, THEREFORE, ORDERED That the Order of the Commission dated February 18, 1966, insofar as same instituted a general investigation into and concerning the rates, rules and regulations, applicable on cast or wrought iron pipe and fittings; plywood, veneer, built-up wood and related commodities, in truckloads, be, and the same hereby is, vacated and set aside and the proceeding discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

APPENDIX

"PLYWOOD, VENEER or WOOD, built-up or combined; BOARDS or SHEETS, flat, sawdust or ground wood compressed with added resin binder.
(See Notes A and B)

NOTE A - Shipper to load and consignee to unload carrier's vehicle.

NOTE B - Truckload minimum weight applies on each semi trailer used to transport this shipment.

Rates in Cents Per 100 Pounds

Rate Basis Numbers	Truckload Minimum Weight Pounds 34,000	40,000	Rate Basis Numbers	Truckload Minimum Weight Pounds 34,000	40,000
20	18	16	170	32	29
25	18	16	180	33	30
30	18	16	190	34	31
35	18	16	200	35	32
40	18	16	210	36	33
45	19	16	220	37	34
50	19	17	230	38	35
55	20	17	340	39	36
60	20	18	260	42	39
65	21	18	280	45	42
70	21	19	300	48	45
75	22	19	320	51	48
80	22	20	340	54	51
85	23	20	360	57	54
90	23	21	380	60	57
95	24	21	400	63	60
100	25	22	420	66	63
110	26	23	440	69	66
120	27	24	460	72	69
130	28	25	480	75	72
140	29	26	500	78	75
150	30	27	520	81	78
160	31	28			

DOCKET NO. T-825, SUB 85

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of General Investigation of Motor Vehicle Common Carrier Rates and Charges and Contract Carrier Minimum Rates and Charges Applicable on Corrugated Paperboard Boxes, Flat or Folded Flat, in Volume or Truckload Amounts, Transported in North Carolina Intrastate Commerce, and Suspension and Investigation of Proposed Cancellation of Exception Rating Applicable on Paperboard Boxes, Corrugated, Knocked Down, Flat or Folded Flat, in Volume and Proposed Increase in Exception Rating Applicable on Boxes, Knocked Down, Other than Corrugated, Less-Than-Truckload, Scheduled to Become Effective May 5 and 6, 1966	ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on September 20 and 21, 1966, and October 5, 1966

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah (Presiding), and John W. McDevitt

APPEARANCES:

For the Respondents:

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina
For: Carriers participating in Southern Motor Carriers Rate Conference Tariff, and in N.C. Motor Carriers Association Tariff

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Attorney at Law
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For: Young Transfer, Maureen G. Welch and Henry E. Welch

For Protestant-Respondents:

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Allen, Steed & Pullen
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Raleigh, North Carolina
For: Maybelle Transport Company

John R. Jordan, Jr., and
Charles B. Morris, Jr.
Jordan, Morris & Hoke
Attorneys at Law
616 First Citizens Bank Building
Raleigh, North Carolina
For: The Mead Corporation, Protestant;
Container Corporation of America,
Protestant; Gilbert Transfer Company,
Respondent; and Jaber Trucking Company,
Respondent

For the Protestants:

Thomas L. Young
Battle, Winslow, Merrell, Scott & Wiley
Attorneys at Law
P.O. Box 269, Rocky Mount, North Carolina
For: Owens-Illinois, Inc.

For the Commission Staff:

Edward B. Hipp
Commission Attorney
P.O. Box 991, Raleigh, North Carolina

For the Using and Consuming Public:

George Goodwyn
Assistant Attorney General
State Library Building
Raleigh, North Carolina

NOAH, COMMISSIONER: These investigations were initiated by the Commission upon its own motions following the filing of tariff schedules by Motor Carriers Traffic Association, Inc., Agent, Greensboro, North Carolina (herein called MCTA), North Carolina Motor Carriers Association, Inc., Agent, Raleigh, North Carolina (herein called NCMCA), and Southern Motor Carriers Rate Conference, Agent, Atlanta, Georgia (herein called SMCRC), for and on behalf of their carrier members (herein called Respondents), which have proposed an increase in their rates and charges on corrugated paperboard boxes, flat or folded flat, in volume or truckload quantities, and on boxes knocked down, other than corrugated, less-than-truckload, applicable between points within the State of North Carolina.

Except as noted, all rates discussed are in cents per 100 pounds.

Specifically, this proceeding originated in the following manner:

1. On October 29, 1965, MCTA filed Supplement No. 34 to its Motor Freight Tariff No. 3-D, N.C.U.C. No. 33 publishing increased rates of 53 cents and 48 cents from Charlotte and

Gastonia, respectively, to Asheville on boxes, fibreboard, pulpboard or strawboard (paper boxes), corrugated, KD, flat or folded flat, with or without fillers or partitions, loose or in packages, applicable only on flat (other than in closed van) trailers, volume minimum weight 18,000 pounds. On January 28, 1966, MCTA filed Supplement No. 39 to its tariff publishing a rate of 53 cents on the items in question from Statesville to Asheville.

On December 7, 1965, NCMCA filed Supplement No. 37 to its Motor Freight Tariff No. 10-D, N.C.U.C. No. 76 publishing rate of 53 cents on these items from Charlotte to Asheville, effective January 6, 1966. On February 2, 1966, NCMCA filed Supplement No. 39 adding Statesville as an origin at this rate effective March 4, 1966.

On October 29, 1965, SMCRC filed Supplement No. 48 to its Tariff No. 137-F, N.C.U.C. No. 35 publishing rate of 53 cents on these items from Charlotte to Asheville, effective December 1, 1965. On January 21, 1966, SMCRC filed Supplement No. 52 adding rate of 53 cents from Statesville to Asheville, effective March 4, 1966.

For several years NCMCA has had in effect from Gastonia to Asheville rate of 55 cents. This rate is continued in effect for its carrier members and is higher than rate of 53 cents later established from Charlotte and Statesville to Asheville. The distance from Gastonia to Asheville is 95 miles or 20 miles less than the distance of 115 miles from Charlotte to Asheville. Thus, boxes from Charlotte to Asheville move through the higher rated point of Gastonia contrary to the provisions of G.S. 62-141, the Long and Short Haul Statute.

Rate of 48 cents from Gastonia to Asheville for account of SMCRC carrier members has been in effect also for several years and is continued in effect without change.

All rates hereinabove specified are in excess of the mileage scale of rates based on Exception Rating 27 1/2L. The latter has been filed by the three tariff publishing agents for Respondents and has been in effect for many years. It produces rates of 35, 31 and 35 cents, respectively, from Charlotte, Gastonia, and Statesville to Asheville. These are lower than the specific commodity rates of 53, 48 and 53 cents involved in this investigation. The latter are also higher than the classification basis of Class 35, minimum weight 20,000 pounds, of 42, 39 and 42 cents from Charlotte, Gastonia and Statesville, respectively, to Asheville. The rates on boxes included in Index 5270 and Items 501680, 210175 and 210180 of the three named tariffs have been canceled and no consideration will be given thereto.

The Commission on December 17, 1965, upon its own motion, instituted an investigation of the foregoing rates insofar as they apply on shipments of boxes, pulpboard, fibreboard

or strawboard (paper boxes), corrugated, knocked down, flat or folded flat, with or without fillers or partitions, loose or in packages, transported in flat (other than in closed van) trailers, volume minimum weight 18,000 pounds. The descriptions and rates are described and named in Item 12795 1/2 and Indices 4260, 4270, and 4290, of MCTA Tariff No. 3-D, N.C.U.C. No. 33; Items 29205 1/2B, 500400, 500440, 500480, and 500485, of NCMCA Tariff No. 10-D, N.C.U.C. No. 76, and Items 29212, 204655, 204660, 204690, and 204720, of SMCRC Tariff No. 137-F, N.C.U.C. No. 35. All like rates as they may appear in these tariffs are under investigation in this proceeding. The Commission is to determine whether the rates and charges, or any of them, are unjust, unreasonable, prejudicial, preferential or otherwise in violation of the law.

2. On January 24, 1966, and amended February 21, 1966, SMCRC filed a motion to broaden the issues to include not only the rates, charges, rules and regulations applicable on the foregoing box items, when transported on flat trailers, but to include also in the Commission's investigation the rates and charges on boxes, fibreboard, pulpboard or strawboard (paper boxes), including bottle carrying cartons, with or without wooden frames, or sheets, fibreboard or pulpboard, corrugated, knocked down, flat or folded flat, with or without fillers or partitions, loose or in packages, volume minimum weight 18,000 pounds, as described in Item 29212 of SMCRC Tariff No. 137-F, N.C.U.C. No. 35, and also the rates, charges, rules and regulations applicable on less-than-truckload shipments of paperboard boxes, knocked down, flat or folded flat, other than corrugated, which are subject to Exception Rating 35B. On February 15 and February 22, 1966, MCTA and NCMCA concurred therein offering no objection to the broadening of the issues except that MCTA's concurrence was subject to the provision that comparable minimum rate schedules of motor contract carriers also be included in the investigation. Upon consideration of the foregoing motion, as amended, and concurrences, the Commission, by order dated March 7, 1966, broadened the scope of this proceeding to include in its investigation all intrastate rates and charges and the rules and regulations in connection therewith applicable to the transportation of boxes, fibreboard, pulpboard or strawboard (paper boxes) including bottle carrying cartons, with or without wooden frames or sheets, fibreboard or pulpboard, corrugated, knocked down, flat or folded flat, with or without fillers or partitions, loose or in packages, in volume or truckload amounts, in all types of trailers for account of all motor vehicle common carriers transporting the same from, to, and between all points and places within North Carolina and also the minimum rates for account of contract carriers by motor vehicle having authority to transport the involved commodities, including, but not confined to, Gilbert Transfer Company, Samuel M. Gilbert and Robert E. Gilbert, d/b/a, Winston-Salem, North Carolina; Maybelle Transport Company, Lexington, North Carolina, and Jaber Trucking Company, Durham, North Carolina. The

Commission, however, disallowed the motion, as amended, and concurrences, to include in the investigation Exception Rating 35B applicable on less-than-truckload shipments of knocked down paper boxes, other than corrugated.

3. Subsequent to the institution of the investigation herein MCTA on February 24, 1966, filed Motor Freight Tariff No. 3-E, N.C.U.C. No. 35 which canceled, effective April 1, 1966, Tariff No. 3-D, N.C.U.C. No. 33, and on March 2, 1966, SMCRC filed Tariff No. 137-G, N.C.U.C. No. 36, effective April 14, 1966, which canceled Tariff No. 137-F, N.C.U.C. No. 35. The rates hereinbefore described were brought forward in the new tariffs.

4. On April 1, 1966, MCTA filed Supplement No. 4, effective May 5, 1966, to its new Tariff No. 3-E, N.C.U.C. No. 35. Item 12885 1/2-A therein proposed cancellation of Exception Rating 35B and the establishment of Exception Rating 50 on less-than-truckload shipments of boxes, other than corrugated.

On March 29, 1966, NCMCA filed Supplement No. 41, effective May 6, 1966, to its Tariff No. 10-D, N.C.U.C. No. 76, which proposed in Item 29205 1/2-C the cancellation of Exception Rating 27 1/2L on the corrugated boxes, volume minimum weight 18,000 pounds, and in Item 29290 1/2-A the cancellation of Exception Rating 35-B on boxes, other than corrugated, less-than-truckload and establishment of Exception Rating 50 in lieu thereof on the latter. Classification Class 35, volume minimum weight 20,000 pounds, apply in lieu of Exception Rating 27 1/2L, volume minimum weight 18,000 pounds.

On April 1, 1966, SMCRC filed Supplement No. 1, effective May 6, 1966, to its new Tariff No. 137-G, N.C.U.C. No. 36, with amendments to Items 29212-A and 29215-A proposing the cancellation of Exception Rating 27 1/2L on corrugated boxes, volume minimum weight 18,000 pounds, and the cancellation of LTL Exception Rating 35B and establishment in lieu of the latter Exception Rating 50 on boxes, other than corrugated.

By these filings increases in rates were proposed on volume shipments of corrugated boxes, except for account of carriers participating in MCTA Tariff No. 3-E, and on less-than-truckload shipments of boxes, other than corrugated, for account of carriers participating in the three tariffs.

By order dated April 21, 1966, these three publications were suspended and an investigation instituted to determine the lawfulness of the proposed cancellation of Exception Rating 27 1/2L on volume shipments of corrugated boxes, and Exception Rating 35B and the establishment of Exception Rating 50 on boxes, other than corrugated.

These orders, in pursuance of G.S. 62-75 and G.S. 62-134, placed the burden of proof upon both common and contract

motor-vehicle carriers, Respondents, to show that the rates, charges, rules and regulations, and practices in connection therewith, under investigation in this proceeding are just, reasonable and otherwise lawful.

After several postponements a hearing was held on September 20 and 21 and October 5, 1966. By order dated December 28, 1966, the suspension of the rates recited has been extended to March 3, 1967.

During nearly three days of hearing, much evidence, including testimony of many witnesses representing shippers, Respondents, and certain contract carrier protestants, was presented through their counsel. A number of witnesses presented exhibits, among them being cost studies for handling the commodities in question. Manufacturers and shippers of boxes such as the Old Dominion Box Company, Mead Corporation, Container Corporation of America, Owens-Illinois, Inc., and Weyerhaeuser which have plants in North Carolina, protested the proposed increases on corrugated boxes. Maybelle Transport Company, a contract carrier transporting for Owens-Illinois, Inc., Gilbert Transfer Company, a contract carrier transporting for Container Corporation of America, Jaber Trucking Company, a contract carrier transporting for Mead Corporation, Young Transfer, an irregular route common carrier transporting for Old Dominion Box Company and Weyerhaeuser, and Martin Motor Lines, an irregular route common carrier transporting for Container Corporation of America, although named Respondents in this proceeding, opposed the increases in the corrugated box rates to the extent they are proposed by common carriers.

The evidence discloses that the application of Classification Rating 35 in lieu of the Exception Rating 27 1/2L on corrugated boxes with a minimum weight of 20,000 pounds, in lieu of present minimum weight of 18,000 pounds, will result in increases ranging from 15 percent to 74 percent in rates and 28 percent to 93 percent in charges.

The establishment of Exception Rating 50 in lieu of Exception Rating 35B on less-than-truckload shipments of boxes, other than corrugated, would result in increases averaging 21.8 percent.

According to the evidence, the movement of corrugated boxes between points in North Carolina is very substantial. Some of the manufacturers at one time moved the majority of their boxes by private carrier. This situation has changed and now the preponderance of it is moved by both common carrier and contract carriers. Most of this is by the latter. Shipper witnesses testified that the large increases proposed would necessitate the acquisition of equipment and transportation by private carrier again. In most instances they realize that their transporters should have an increase in these rates in order to meet the increased cost of operation which they have experienced in

recent years and they are not averse to a reasonable increase in their rates. With two exceptions these shipper protestants have suggested an increase ranging from 5 to 10 percent. They do not desire to return to private carriage but the increases proposed would result in their doing so. In the two exceptions no expression was given relative to any increase.

The protesting Respondent carriers testified that they would be forced out of business if the proposed increases are approved. It appears that the only movement of corrugated boxes on flatbed trailers is from Charlotte, Gastonia and Statesville to Asheville via only one common carrier, namely, Fredrickson Motor Express. Rates for such movements were agreed to by shipper some time ago in order to have this type of equipment dedicated to its sole use to meet its demands and needs at all times. The equipment when unloaded is promptly returned empty to origins for loading again.

Fredrickson's cost witness submitted evidence tending to show that the actual cost of handling the shipments from Gastonia and Statesville to Asheville, based on minimum weight of 18,000 pounds, and rates of 48 and 53 cents, respectively, is $88.41 per vehicle load from Gastonia and $87.03 per vehicle load from Statesville. The revenues are $86.40 and $95.40, respectively, thus providing a loss of $2.01 from Gastonia and a profit of $8.37 from Statesville. The scale of rates, Class 27 1/2L, was used prior to the filing of the higher specific point-to-point rates, which were 31 and 35 cents, respectively. The resulting increases are 17 and 18 cents. The rates under investigation are 9 and 11 cents, respectively, higher than Classification Rating 35, producing rates of 39 and 42 cents, respectively. The latter, however, are subject to minimum weight of 20,000 pounds. The total vehicle charges under the latter rates are $78.00 and $84.00, being $8.40 and $11.40 less than the charges produced by the rates under investigation for 18,000 pounds. There was no opposition to these special rates to Asheville.

The same cost witness submitted a cost study of operations of eight North Carolina carriers, viz., Fredrickson Motor Express, Helms Motor Express, New Dixie Lines, Old Dominion Freight Lines, Overnite Transportation Company, Pilot Freight Carriers, Standard Trucking Company, and Thurston Motor Lines. Only Fredrickson and Helms operate wholly within North Carolina. The study includes expenses for handling both truckload and less-than-truckload traffic.

Expenses and revenues include all traffic handled and are not clearly separated between truckloads and less-than-truckloads nor between boxes, corrugated, and boxes, other than corrugated. The eight common carrier Respondents, however, submitted an exhibit of a recap of units of service, applied cost, present and proposed revenue on 23 truckload shipments of fibreboard boxes within North

Carolina, the line-haul cost being based on volume minimum weight of the shipment from nine shipping points. Covered under units of service are pick-up and delivery, line-haul, outbound load and return load costs; and covered under applied costs are pick-up, delivery and billing and line-haul costs. This study, to illustrate, gives expense of handling a load of corrugated boxes from Spencer for a distance of 26 miles as $50.48. The present rate produces revenue of $50.40. The suspended rate produces revenue of $70.00. Using this illustration it costs the carrier at the present rate a dollar to earn a dollar. Under the suspended rate it would cost the carrier 72 cents to earn a dollar.

Transportation of the 23 shipments studied by Respondents cost carriers $1,669.47. Revenue under present rates was $1,340.22. The operating ratio was 124.6. Revenue under the suspended rates would be $1,850.12 and the operating ratio 90.2.

The cost study of transporting paper boxes, other than corrugated, less-than-truckload, submitted by Respondents discloses that present rates produce revenue of $1,506 for the test period and the proposed rates based on Exception Rating 50 would produce revenue of $1,806. The respective operating ratios are 142.4 and 118.8.

The operating ratios for the year of 1965 of both common and contract carriers participating directly in this investigation as adduced of record and taken from annual reports filed with this Commission, of which we take official notice, are as follows:

Fredrickson Motor Express	93.2
Helms Motor Express	97.5
New Dixie Lines	96.9
Old Dominion Freight Lines	95.9
Pilot Freight Carriers	96.5
Standard Trucking Company	93.1
Thurston Motor Lines	91.9
Maybelle Transport Company	95.9
Martin Transfer & Storage Co.	96.0
Young Transfer	81.7
Gilbert Transfer Company	89.0
Jaber Trucking Company	94.3
Martin Motor Lines	88.9

The record does not disclose to what extent other carriers participating in the rates under investigation have been or now are transporting corrugated and other than corrugated paper boxes. Based on the records of the Commission, the operating ratios of such carriers which have authority to transport these commodities average approximately 92.6 for Class I common carriers, 93.4 for Class II common carriers, and 94.5 for Class III common carriers.

The Commission's staff participated in this proceeding and presented exhibits of rates and charges and other

statistical information to assist the Commission in determining the reasonableness of the rates and charges on the commodities under investigation.

Based on the evidence adduced in this proceeding, the briefs of the parties and the records of the Commission, we make the following

FINDINGS OF FACT

1. Corrugated paper boxes move in closed van equipment except from Charlotte, Gastonia, and Statesville for account of Fredrickson Motor Express for which special commodity rates have been provided for movement on flatbed equipment. They are by reason of their construction light, are shipped in truckload quantities and do not weigh as much as the present minimum weight of 18,000 pounds. Only where corrugated boxes are constructed of heavy grade paper can 18,000 pounds or more be loaded in a trailer.

2. Exception Rating 27 1/2L has been applicable on paper boxes, corrugated, volume minimum weight 18,000 pounds for many years, except for account of Maybelle Transport. These rates have not been increased since 1957. The cost of transporting this commodity by reason of its light density exceeds the cost of transporting general commodities as a whole and results in a higher operating ratio than that accruing for the transportation of general commodities. Since the 1957 increase, operating costs have risen.

3. The proposed increase in rates on paper boxes, corrugated, which would result from the cancellation of Exception Rating 27 1/2L, volume minimum weight 18,000 pounds, and the substitution of Classification Rating 35, volume minimum weight 20,000 pounds, produces excessive charges and such proposal is unjust and unreasonable.

4. Exception Rating 27 1/2L presently applicable on paper boxes, corrugated, volume minimum weight 18,000 pounds, applied by common carriers and contract carriers other than Maybelle produces insufficient revenues to permit Respondents to earn a fair profit for transporting this commodity and is unjust and unreasonable.

5. Respondent common and contract carriers, other than Maybelle, are in need of and have justified an increase of approximately 10 percent in their rates for this transportation. The application of rates based on 32 percent of Class 100 rates (herein referred to as Exception Rating 32), volume minimum weight 18,000 pounds, in lieu of Exception Rating 27 1/2L will produce a scale of rates 10 percent higher than present rates on paper boxes, corrugated. Exception Rating 32 is just and reasonable.

6. The operating ratios of Maybelle Transport Company, a common and contract carrier, but authorized to transport corrugated paper boxes under contract with Owens-Illinois,

Inc., for the year of 1965 and the first six months of 1966, viz.: 95.9 and 96.8, as shown of record, exceed the operating ratios of the other contract carriers engaged in transporting this commodity. Its minimum rate of 36 cents a truck-mile for distances of 75 miles and less on outgoing loads and the return of empty vehicles for same distances give Maybelle an undue advantage or preference in competition with common carriers and, therefore, is inconsistent with the public interest and in contravention of G.S. 62-147(b). Minimum rates to produce truck charges no lower than Exception Rating 32 for the round trip distances not to exceed 170 miles are just and reasonable minimum rates for account of Maybelle Transport and will conform with the policy declared in G.S. 62-259.

7. Paper boxes, corrugated, moving on flatbed equipment for account of Fredrickson Motor Express are transported under special arrangements for account of the receiver at destination, the weight of which averages between 19,000 and 20,000 pounds per load. The equipment used in this operation is returned empty immediately to loading points. Out-of-pocket costs do not produce sufficient revenues to enable Fredrickson Motor Express to earn a fair profit for the transportation of paper boxes, corrugated, on flatbed trailers. The proposed specific commodity rates, volume minimum weight 18,000 pounds, from Charlotte and Statesville to Asheville are just and reasonable. The rate from Gastonia, intermediate to Charlotte, to the extent it exceeds the rate from Charlotte, the more distant point, violates G.S. 62-141, and is, therefore, unlawful.

8. The shippers of paper boxes, other than corrugated, less-than-truckload, manifested no interest in nor objected to the proposed increase in rating thereon from Exception Rating 35B to Exception Rating 50. The application of the proposed Exception Rating 50 in lieu of Exception Rating 35B is just and reasonable.

CONCLUSIONS

The Public Utilities Act, 1963, Chapter 62 of the General Statutes of North Carolina, supplies this Commission with certain guidelines for determining whether or not rates, charges, classifications, rules and regulations, and practices relating thereto, of motor vehicle common and contract carriers are lawful (Sections 146 and 147).

Section 259 declares it to be the policy of the State of North Carolina, among other things, to promote and preserve adequate, economical and efficient service to all communities of the State by motor carriers; to encourage and promote harmony among all carriers and to prevent discrimination, undue preferences or advantages, or unfair or destructive competitive practices between all carriers.

Section 146(h) requires this Commission to give due consideraion, among other factors, to the effect of rates

upon movement of traffic by the carrier or carriers for which rates are prescribed; to the need in the public interest of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service, and to the need of revenues sufficient to enable such carriers under honest, economical, and efficient management to provide such service.

Section 146(g) provides that in any proceeding to determine the justness or reasonableness of any rate of any common carrier by motor vehicle, such shall be fixed and approved, subject to the provisions of Subsection (h) above on the basis of operating ratios of such carriers.

Section 147(b), which contains a guideline for prescribing or approving contract carrier minimum rates, provides that this Commission shall give no advantage or preference to any contract carrier in competition with any common carrier by motor vehicle, which the Commission may find to be undue, or inconsistent with the public interest and the declared policy. The Commission is further required to give due consideration to the cost of the services rendered by contract carriers and to the effect of such minimum rate, or such rule, regulation, or practice, upon the movement of traffic by such carriers.

The record is replete with testimony from shippers that to increase rates on corrugated boxes as drastically as the cancellation of Exception Rating 27 1/2L and the substitution of Classification Rating 35 will produce would force the contract carriers appearing to be transporting the preponderance of corrugated box traffic out of business and this traffic would be diverted to private carriers. The level of transportation rates influences the shippers in their decision to ship these boxes either by private carrier, contract carrier or common carrier. At one time most of these shippers moved their corrugated boxes by private carrier and they are not averse to returning to private carriage if the cancellation of Exception Rating 27 1/2L, as proposed, is approved. The diversion would result in the discontinuance of the contract carriers and the elimination of common carriers now engaged in transporting volume shipments.

With the exception of Owens-Illinois, Inc., the corrugated box manufacturers and shippers testified that an increase varying from 5 percent to 10 percent might be justified in order to absorb common and contract carrier increased costs of operations. Owens-Illinois, Inc., which has a contract with Maybelle Transport Company, did not offer any testimony to indicate that it would support any increase in rates to its contract carrier but did offer testimony to the effect that any substantial increase in rates could possibly result in a loss of business to the common and contract carriers of approximately 2300 truckloads per year which would be diverted to private carriers. Since the hearing, Owens-Illinois, Inc., has agreed to an increase of 1 cent a

truck-mile for hauls up to 75 miles. Maybelle has filed a schedule of minimum rates and charges containing this increase. Maybelle's rates, which are based on truck-mile operations to destinations located beyond 75 miles from origin are somewhat higher than common carrier and the other contract carrier rates.

Also since the hearing Mead Corporation agreed to a 10 percent increase in the minimum rates of its contract carrier, Jaber Trucking Company. Jaber has filed its schedule of minimum rates reflecting this percentage increase. The minimum rates of Jaber have been on basis of Exception Rating 27 1/2L, volume minimum weight 18,000 pounds, being the same as common carrier rates.

Rates on the classification basis are generally considered to be maximum rates and commodity rates in excess thereof require special justification. The three specific commodity rates filed by Fredrickson Motor Express on corrugated boxes on flatbed equipment from Charlotte, Gastonia and Statesville to Asheville, although carrying a minimum weight of 18,000 pounds, are higher than the maximum classification rating of Class 35, volume minimum weight 20,000 pounds. The corrugated boxes transported by Fredrickson on flatbed trailers are covered by tarpaulin. The movements are constant and in order to meet the requirements of the shippers and receivers this particular type of equipment must be dedicated to the service. The facility offered, the service rendered, and the practice of Fredrickson in providing a dedicated service is similar to the service offered by contract carriers or provided by private carriers. Its certificate, however, does not preclude it from rendering a common carrier service of this character.

The study made by Respondents' cost expert include operations of eight carriers of which only two, Fredrickson and Helms, operate only within the State of North Carolina. The others engage in operations within North Carolina and between this state and other states. All these carriers engage in both interstate and intrastate commerce. The cost study of these carriers include factors not related to the transportation of corrugated paper boxes in North Carolina intrastate commerce, and do not separate interstate and intrastate operations. These unrelated factors inflate the costs of movements wholly within North Carolina. The operating ratio of the studied Respondents as shown of record no doubt motivated Respondents in seeking increases ranging from 15 percent to 74 percent in rates and 28 percent to 93 percent in charges. These increases would, according to their study, lower their operating ratio to 90.2 on transportation of corrugated boxes.

Respondents employed the Interstate Commerce Commission Highway Form B as a guide in arriving at their costs. In doing so, system or regional averages for all commodities were included. Ordinarily, the operating ratio on all traffic of a carrier which transports many articles is of

little help in the determination of the compensatory character of the rates on a particular article. Where, however, the operating ratio reflects the relation of the expense to the revenue on the particular article, as in this case, it is indicative of the profitableness of the rates. Regional averages, while entitled to some weight in the absence of more accurate data, cannot be utilized as a determinative basis for appraising the compensativeness of the considered proposal. More accurate data was given as to the special rates on corrugated boxes on flatbed trailers from Gastonia and Statesville to Asheville. An analysis of the cost study presented in connection with the general scale of rates, after giving weight to the presentation, is not convincing that an increase of more than 10 percent in such rates should be approved and authorized.

We have found in connection with the revision of rates and charges for the transportation of household goods that an operating ratio of 93 before income taxes is just and reasonable. Specialized service is required in the transportation of household goods. Assuming an operating ratio of 93 to be within the zone of reasonableness does not mean that each commodity or segment of a carrier's operations must produce that revenue.

We conclude that:

(a) Exception Rating 27 1/2L does not produce sufficient revenues for the transportation of corrugated paper boxes, volume minimum weight 18,000 pounds, between points in North Carolina and that Respondents have justified an increase of only 10 percent in such rates. Exception Rating 32, volume minimum weight 18,000 pounds, produces this increase;

(b) The specific commodity rates from Charlotte and Statesville to Asheville on corrugated paper boxes in flatbed trailers, volume minimum weight 18,000 pounds, are just and reasonable. The rate from Gastonia to the extent that it is higher than from Charlotte, the more distant point, is in violation of G.S. 62-141 and is, therefore, unlawful. A rate from Gastonia to Asheville no higher than from Charlotte, will be just and reasonable;

(c) Cancellation of Exception Rating 35B on paper boxes, other than corrugated, less-than-truckload, and the application of Exception Rating 50 is just and reasonable;

(d) Application of minimum rates based on Exception Rating 32 converted to cents-per-truck-mile for round-trip distances not to exceed 170 miles, for the transportation of corrugated paper boxes by Maybelle Transport Company are not inconsistent with the public interest nor in contravention of G.S. 62-147(b) and are just and reasonable minimum rates; and

(e) The rates found just and reasonable in the preceding findings do not result in undue preference or prejudice, or

unjust discrimination nor unfair or destructive competitive practices between all carriers.

The orders of the Commission issued December 17, 1965, March 7, 1966, and April 21, 1966, instituting the instant investigation, and subsequent orders extending the suspension of the rates covered and the continuance of the hearing from time to time will be vacated.

IT IS ORDERED That Respondent common carriers rescind the cancellation of Exception Rating 27 1/2L, volume minimum weight 18,000 pounds, applicable on corrugated paper boxes, flat or folded flat, as hereinbefore described, without prejudice to the filing of an Exception Rating based on 32 percent of Class 100 rates for future application.

IT IS FURTHER ORDERED That Respondents adjust the Gastonia-Charlotte rates to Asheville on boxes, fibreboard, pulpboard or strawboard (paper boxes), corrugated, KD, flat or folded flat, with or without fillers or partitions, loose or in packages, applicable only on flat (other than in closed van) trailers, volume minimum weight 18,000 pounds, to conform with the Long- and Short-Haul Statute, G.S. 62-141, and the Findings of Fact and Conclusions herein.

IT IS FURTHER ORDERED That contract carriers which heretofore have filed schedules of minimum rates applying Exception Rating 27 1/2L on corrugated paper boxes, volume minimum weight 18,000 pounds, file new schedules of minimum rates based on 32 percent of common carrier Class 100 rates for future application.

IT IS FURTHER ORDERED That Maybelle Transport Company, a contract carrier, file a new schedule of minimum rates to apply on corrugated paper boxes in truckload quantities in conformity with Finding No. 6 and the Conclusions herein.

IT IS FURTHER ORDERED That both common and contract carriers engaged in the transportation of the commodities under investigation be, and they hereby are, authorized to file schedules of rates and charges herein found just and reasonable upon not less than five days' notice to the Commission.

IT IS FURTHER ORDERED That the orders of investigation heretofore issued in this investigation, mainly those issued December 17, 1965, March 7, 1966, and April 21, 1966, be vacated and set aside upon compliance with this order by Respondents, and this proceeding be discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 85

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of General Investigation of Motor Vehicle Common Carrier Rates and Charges and Contract Carrier Minimum Rates and Charges Applicable on Corrugated Paperboard Boxes, Flat or Folded Flat, in Volume or Truckload Amounts, Transported in North Carolina Intrastate Commerce, and Suspension and Investigation of Proposed Cancellation of Exception Rating Applicable on Paperboard Boxes, Corrugated, Knocked Down, Flat or Folded Flat, in Volume and Proposed Increase in Exception Rating Applicable on Boxes, Knocked Down, Other than Corrugated, Less-than-Truckload, Scheduled to Become Effective May 5 and 6, 1966	SUPPLEMENTAL ORDER ON FURTHER HEARING

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, on Tuesday, April 18, 1967

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah (presiding), and John W. McDevitt

ADDITIONAL APPEARANCE:

For the Respondents:

Ralph McDonald
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina

NOAH, COMMISSIONER: The exceptions and notice of appeal filed by certain of the protestant-intervenors to the Commission's order dated February 3, 1967, requested reopening and further hearing in order to submit additional evidence pertaining to the application of Exception Rating 32 prescribed by the Commission in lieu of the present applicable Exception Rating 27 1/2L plus 10%, the 10% increase having been found to be just and reasonable on paper boxes, corrugated, volume minimum weight 18,000 pounds. These parties contended that the prescribed Exception Rating 32 results in rates and charges considerably in excess of Exception Rating 27 1/2L plus 10% between points this traffic actually moves.

By order dated March 9, 1967, these proceedings were reopened and set for further hearing on April 18, 1967, for the purpose of receiving additional evidence pertaining only to the rates applicable on paper boxes, corrugated, volume minimum weight 18,000 pounds.

Upon further consideration of the matter and of the additional evidence adduced of record, the Commission makes the following

FINDINGS OF FACT

1. Respondents have agreed to the application in future of Exception Rating 27 1/2L plus 10% in lieu of Exception Rating 32 previously prescribed on movements of paper boxes, corrugated, volume minimum weight 18,000 pounds.

2. The evidence on further hearing discloses that under the traffic study made by shipper-intervenors the preponderance of this traffic moves within a range of 160 miles from origin, within which range Exception Rating 32 prescribed by the Commission in the February 3, 1967, order, produces increases as much as 21.7% over and above the application of present Exception Rating 27 1/2L, the average increase being approximately 14%. Present Exception Rating 27 1/2L plus 10% is just and reasonable and has been justified by the record. Finding of Fact No. 5 of the Commission's original order dated February 3, 1967, is modified pursuant to this finding.

3. The commodity rates on corrugated paper boxes are related to the scale of rates in Exception Rating 27 1/2L except from Winston-Salem to Elkin. The latter commodity rate is lower than Rating 27 1/2L between the two points. An increase in these rates not to exceed 10% is just and reasonable.

4. Maybelle Transport Company and Owens-Illinois, Inc., agree to negotiate a contract that will reflect rates comparable to those reflected in Exception Rating 27 1/2L plus 10% in lieu of Exception Rating 32 heretofore prescribed. Finding of Fact No. 6 is modified to reflect this substitution.

CONCLUSIONS

We are convinced after further hearing that Exception Rating 32, prescribed for application on paper boxes, corrugated, volume minimum weight 18,000 pounds, in lieu of Exception Rating 27 1/2L plus 10%, volume minimum weight 18,000 pounds, exceeds a general increase of 10% found to be just and reasonable and will work a hardship on the shippers of this commodity moving between points in North Carolina. We are satisfied that the application of the prescribed Exception Rating 32 will divert much of this traffic from contract carriers to private carriage to the detriment of franchised carriers. The respondents agree to the change and the shippers agree to the increase except Container Corporation of America, which qualifies its agreement by requesting that paper boxes, corrugated, and other than corrugated, LTL, be excepted from the application of the general increase of 5% approved by the Commission in Docket No. T-825, Sub 97. This shipper, however, does not contend

that an increase of 10% in the present rates on paper boxes, corrugated, volume minimum weight 18,000 pounds, is unjust or unreasonable. The evidence adduced of record in the general 5% increase case, Docket No. T-825, Sub 97, contains no request that paper boxes, LTL, should be exempt from that increase nor did anyone appear in behalf of shippers of this commodity. This Commission cannot consider in the instant case any request to except paper boxes, LTL, from application of the general increase of 5%.

To the extent this order changes or revises the original order of February 3, 1967, the latter is modified accordingly. In all other respects, the original order remains in full force and effect.

Upon completion of the contract between Maybelle Transport Company and Mead Corporation, Maybelle should submit the same to this Commission for approval.

Exceptions hereto and notices of appeal, if any, should be filed in accordance with G.S. 62-90(a).

IT IS, THEREFORE, ORDERED That the order of the Commission in these proceedings dated February 3, 1967, be, and the same hereby is, modified and amended pursuant to Findings of Fact and the Conclusions herein given, and that respondents be, and hereby are, authorized to increase their rates on paper boxes, corrugated, volume minimum weight 18,000 pounds, rated Class 27 1/2L by 10% and file their schedule of rates on this basis on one day's notice in compliance with the rules and regulations of the Commission governing the construction and filing of tariffs and minimum rate schedules.

IT IS FURTHER ORDERED That to the extent the original order dated February 3, 1967, is not modified or changed by this supplemental order, the said original order shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 94

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Suspension and Investigation of filed motor vehicle common carrier dedicated service rates, charges, rules and regulations by North Carolina Motor Carriers Association, Inc., Agent	) ORDER TERMINATING) SUSPENSION AND) INVESTIGATION AND) ALLOWING RATES TO) BECOME EFFECTIVE)

HEARD IN: Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on August 3, 1966, at 9:30 a.m.

BEFORE: Chairman Harry T. Westcott (presiding), and Commissioners Sam O. Worthington and Clarence H. Noah

APPEARANCES:

For the Respondent:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina
For: East Coast Transport Company, Incorporated
H & P Transit Co.

For the Protestants:

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina
For: Kenan Transport Company
M & M Tank Lines, Inc.
Petroleum Transportation, Inc.
J.B. Honeycutt Co., Inc.
Tidewater Transit Co., Inc.
O'Boyle Tank Lines, Incorporated

For the Intervenor:

George A. Goodwyn
Assistant Attorney General
Room 210, State Library Building
Raleigh, North Carolina
For: The using and consuming public

For the Commission's Staff:

Edward B. Hipp
Commission Attorney

WORTHINGTON, COMMISSIONER: North Carolina Motor Carriers Association, Inc., Agent, of Raleigh, North Carolina (respondent), filed with the North Carolina Utilities Commission (Commission), for and on behalf of East Coast Transport Company, Incorporated, H & P Transit Company and Southern Oil Transportation Company, Inc., tariff schedule proposing the establishment of dedicated service rates, charges, rules and regulations for application on shipments of liquefied petroleum gas moving in tank truckloads between points in North Carolina. The tariff rates, charges, rules and regulations were filed to become effective June 9, 1966, and designated as follows:

"North Carolina Motor Carriers Association, Inc., Agent, Local Motor Freight Tariff 5-K, N.C.U.C. No. 74, viz: Supplement 20 thereto, Items 900 through 945 of Section 9 thereof"

A number of common carriers authorized to transport liquefied petroleum gas in tank truckloads in intrastate commerce (protestants) protested the filing and requested suspension and investigation. The Commission in its order of June 6, 1966, suspended the filing, ordered investigation and scheduled hearing.

Respondent and protestants were present with counsel and witnesses and participated in the hearing held in the Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on August 3, 1966.

Prior to the hearing one of the carriers, Southern Oil Transportation Company, Inc., on whose behalf such filing was made, sought and was granted permission through order of the Commission to withdraw from the filing.

Evidence was offered in support of the filing by carrier and shipper witnesses tending to show that the filing provides for rates at 90 percent of present rates for the transportation of liquefied petroleum gas where carrier and shipper enter into an agreement wherein the carrier dedicates a piece of equipment to the use of the shipper for the movement of liquefied petroleum gas in intrastate commerce for a period of 52 weeks with a guarantee of $575 per week. All shipments handled by carrier under such agreement will be billed at the lower rate, 90 percent of present rates or 10 percent lower than the present rates, and when the quantity hauled during any week under the contract produces revenue at the lower rate in excess of the $575 guarantee the shipper will pay for such excess hauling at the lower rate. If contracting carrier hauls for contracting shipper during the period of the contract shipments that are required to be made by carrier in equipment other than the dedicated equipment, carrier will charge and shipper will pay the regular scheduled rate for such transportation and the dedicated rate or lower rate will not be applicable.

Evidence also tends to show that this Commission has heretofore approved dedicated rates for the hauling of petroleum products, which are somewhat similar to the rates here proposed. The Interstate Commerce Commission, together with a number of states, has likewise authorized the use of dedicated service rates in a number of instances.

The testimony of shipper witness indicates that his company handles a large quantity of liquefied petroleum gas in North Carolina, having facilities in at least 14 different locations. Previously shipper has made movements with his own equipment. It proposes to discontinue practically all its private hauling and use common carrier service generally. In doing so, it needs assurance that common carrier service is available at all times, and it is willing to guarantee a carrier who will dedicate a unit of equipment to its service $575 per week whether the charges for the transportation actually performed amount to this much or not. In making such a guarantee shipper requires that the shipments be billed at 90 percent of present rates, and if at this lower rate the total revenue earned by carrier in any week's operation exceeds the $575 guarantee, it will pay carrier for such additional transportation. At the same time, if carrier is called upon to handle shipments for shipper in other equipment shipper will pay for such transportation at the present rates and charges.

Carrier is assured under this arrangement of $575 per week whether the truck runs or does not run. Carrier is also assured of pay for shipments handled which produce revenue in excess of the guarantee.

Protestants, or at least some of the protestants, offered testimony tending to show that for designated periods they failed to make operating expenses in the transportation of liquefied petroleum gas under present rates and charges and that a reduction in rates will enable contracting carrier to deprive them of business which otherwise they might get and further reduce their chances of earning a profit in this kind of transportation.

There is some suggestion in the record that difficulty may be encountered in policing this kind of an operation.

The evidence offered by the parties justifies the following

FINDINGS OF FACT

1. North Carolina Motor Carriers Association, Inc., Agent, is the tariff filing agent for the participating carriers in the filing as well as for the protestants to the filing.

2. The participating carriers, East Coast Transport Company, Incorporated, and H & P Transit Company, and the several protesting carriers are certificated common carriers

holding authority from this Commission to transport in intrastate commerce liquefied petroleum gas in tank truckloads and subject to Commission jurisdiction.

3. Any certificated common carrier holding authority from this Commission to transport liquefied petroleum gas in intrastate commerce in North Carolina may participate in the tariff by simply having its filing agent include it therein. The proposed reduction of 10 percent in present rates for the transportation of liquefied petroleum gas in tank truckloads in intrastate commerce has application only where carrier enters into an agreement with the shipper whereby carrier will dedicate a piece or unit of equipment to services of the shipper for a period of 52 weeks with a guarantee by the shipper of $575 per week for the full 52 weeks for the use of such equipment and assures carrier that if, during any week, carrier transports at the lower rate such quantity of liquefied petroleum gas for which the revenue therefore exceeds the $575 weekly guarantee, it will be paid for such excess hauling at the prescribed lower rate. Any hauling for contracting shipper by contracting carrier in equipment other than the unit of dedicated equipment will be paid for by shipper at the regular prevailing rate and the lower rate will not be applicable.

4. In a prior proceeding this Commission has approved a dedicated service rate for the transportation of petroleum products, which rate is still in effect and available.

5. The weekly amount shipper guarantees carrier for one unit of equipment dedicated to its use for a 52-week period exceeds the average amount per unit used by participating carriers or protestants for the total number of pieces of equipment used by them in the transportation of liquefied petroleum gas for a 52-week period.

6. Participating carrier H & P Transit Co. offered no testimony.

7. East Coast Transport Company, Incorporated, offered testimony by one of its officers and by a shipper to the effect that the shipper, Profax Gas Corporation, subsidiary of Texas Eastern Transmission Corporation, is ready, willing and anxious to enter into contract with it for the dedication of one unit of equipment.

8. East Coast Transport Company, Incorporated, has adequate equipment to fulfill its requirements to the general public and dedicate one unit of equipment under contract with shipper. It has also the financial ability to acquire such equipment as it may need to meet public requirements.

9. Copy of contract which may be entered into by any carrier with any shipper for transportation of liquefied petroleum gas under dedicated service rates as here proposed will be supplied to the Commission.

CONCLUSIONS

The Commission has heretofore approved for petroleum carriers a dedicated service rate or charge for the transportation of petroleum products. A carrier using the petroleum dedicated service rate may enter into an agreement with the shipper for the dedication of equipment at a fixed charge for one week at the time. Under this tariff a shipper may seek to contract with the carrier during the peak season, and both liquefied petroleum gas and petroleum products have their peak seasons in North Carolina, and after using such carrier's equipment for the peak season cancel the contract at the end of any week. The tariff filing here is somewhat different. It requires the shipper to contract for a full 52-week period, which includes both the low and the high peaks, and it also requires the shipper to pay carrier any revenue produced by the dedicated equipment during any week, which at the lower rate may be in excess of the guaranteed amount. If, during the term of the contract, shipper calls upon contracting carrier to furnish additional equipment to meet its transportation needs, the dedication service rate will not be available for such shipments, but the regular prevailing rates will be applied. This tariff filing is available to any and all intrastate carriers having authority to transport liquefied petroleum gas. The fact that the carrier has a guarantee of $575 per week for its equipment and handles shipments at a rate 10 percent lower than the prevailing rates does not necessarily mean that the carrier is transporting at a lower rate. It may well be that shipments handled in a week at the present rates will not produce revenue of $575. If so, the carrier is actually, so far as rates are concerned, enjoying an increase over present rates. The justification for the 10 percent reduction in the present rates is the weekly guarantee to the carrier. At the same time the use of the reduced rates is dependent upon contractual relations between carrier and shipper, neither of which is under any compulsion to enter into.

In return for the dedication of a unit of equipment by the carrier the shipper guarantees the carrier for a period of 52 weeks an amount in excess of what the carrier has been able to earn on an average with its equipment used in transporting liquefied petroleum gas. This arrangement assures the carrier of full payment of its operating expenses and an adequate return on its investment. At the same time the shipper is assured of one piece of equipment at all times to meet its shipping needs. The contractual arrangement between the carrier and shipper will be reduced to writing and a copy of it furnished the Commission for its file.

It is not readily apparent from the record in this case, or from any other source, how protesting carriers, or any other carriers, can necessarily be adversely affected by this tariff. In the first place, it is available for their participation if they care to participate. In the next

place, it guarantees more revenue for the piece of equipment for the 52-week period than any protesting carrier's evidence indicates it realized on the average for the use of its equipment in any 52-week period for the transportation of liquefied petroleum gas. There is nothing in the filing which prevents the shipper from calling on any carrier for any needs it may have. Certainly, the shipper is at liberty to enter into such contract with the carrier as it sees fit in order to be assured of transportation service adequate for its needs. No adequate reason has been advanced as to why the carrier, with the approval of the Commission, cannot contract with shipper where the terms of such contract are such as to guarantee the carrier adequate revenue to meet its operating expenses, service its investment and produce a fair and reasonable profit.

We conclude that the tariff schedule of charges, rules and regulations filed in this matter, when considered in the light of the guarantee shipper gives the carrier, are just and reasonable and though they provide for a reduction of 10 percent in present applicable rates, when applied to hauling under contract with the dedicated equipment, they are not injurious or detrimental to other carriers engaged in the transportation of liquefied petroleum gas in intrastate commerce in North Carolina.

We do require that copy of any contract entered into between any carrier and any shipper for the use of the tariff schedule of rates and charges, rules and regulations filed in this instance shall be filed with the Commission and that a copy of such contract shall at all times be kept with and in the vehicle so dedicated to shipper's service under such contract so that same may be readily available for inspection.

IT IS, THEREFORE, ORDERED that the tariff schedule of rates, charges, rules and regulations filed by North Carolina Motor Carriers Association, Inc., Agent, and designated Local Motor Freight Tariff 5-K, N.C.U.C. No. 74, viz: Supplement 20 thereto, Items 900 through 945 of Section 9 thereof, be and the same is hereby approved and allowed to become effective as of February 1, 1967.

IT IS FURTHER ORDERED that the order of suspension issued in this matter on June 6, 1966, be and the same is hereby terminated and canceled and the investigation discontinued.

IT IS FURTHER ORDERED that prior to the use and application of the rates, charges, rules and regulations included in this filing the carrier and the shipper shall have entered into a contractual relationship in compliance and in keeping with said tariff filing and substantially in compliance with the testimony offered in the case and the findings made in this order and shall furnish the Commission with a copy thereof.

IT IS FURTHER ORDERED that a copy of such contract shall be carried at all times in the equipment dedicated to shipper's service or be in the possession of the operator of such equipment and readily available for inspection.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-825, SUB 96

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Investigation of reduced rates proposed for application on shipments of unmanufactured tobacco, leaf or scrap, cuttings and stems, etc., in truckloads, minimum weight 36,000 pounds, published for account of Burton Lines, Inc., and scheduled to become effective August 8, 1966) ORDER APPROVING TARIFF FILING REFLECTING REDUCED RATES

HEARD IN: Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on September 30, 1966, at 10:00 a.m.

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah and Thomas R. Eller, Jr.

APPEARANCES:

For the Respondent:

Vaughan S. Winborne
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For: Burton Lines, Inc.

For the Protestants:

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina
For: Forbes Transfer Company, Inc.
Blair Transit Company
North State Motor Lines, Inc.
Oliver Trucking Company, Inc.
Pitt County Transportation Company, Inc.
The Transport Corporation
Vance Trucking Company, Incorporated

For the Commission Staff:

Edward B. Hipp
Commission Attorney

WORTHINGTON, COMMISSIONER: On July 8, 1966, for the account of Burton Lines, Inc., North Carolina Motor Carriers Association, Inc., Agent, filed Supplement No. 37 to its Local Motor Freight Tariff No. 8-H, N.C.U.C. No. 70, such filing having for its purpose the establishment of rates reflecting reductions for the transportation of tobacco, unmanufactured, leaf or scrap, including cuttings or stems; tobacco, reconstructed, in hogsheads, cubical pack, casks, tierces, bales machine pressed, barrels, boxes or cases, in straight or mixed shipments, in or on tractor-semi-trailer trucks, truckload minimum weight 36,000 pounds per truck used.

The proposed reductions in rates are as follows:

2 cents per 100 pounds when the Description A rate is now 22 cents through 30 cents

3 cents per 100 pounds when the Description A rate is now 31 cents through 40 cents

4 cents per 100 pounds when the Description A rate is now 41 cents through 50 cents

5 cents per 100 pounds when the Description A rate is now 51 cents through 60 cents

6 cents per 100 pounds when the Description A rate is now 61 cents and over

The Commission allowed the filing to become effective as of August 8, 1966, but ordered an investigation as to the reasonableness and justness of such filing and scheduled public hearing thereon for Friday, September 30, 1966. Within apt time Forbes Transfer Company, Inc.; Blair Transit Company; North State Motor Lines, Inc.; Oliver Trucking Company, Inc.; Pitt County Transportation Company, Inc.; The Transport Corporation; and Vance Trucking Company, Incorporated (protestants), filed protest with the Commission and requested that the filing be suspended pending investigation and hearing. The Commission denied the motion for suspension.

The matter came on for hearing as scheduled. Respondent, filing Agent, offered no testimony in support of or against such filing. The carrier, Burton Lines, Inc., for whom the filing was made, was present with counsel and witnesses and the protestants were present with counsel. Burton Lines, Inc., and protestants offered evidence through the testimony of witnesses and exhibits. From this evidence the Commission makes the following

FINDINGS OF FACT

1. The tariff filing applies to shipments in intrastate commerce.

2. Tobacco products named in the filing move between a very limited number of points in North Carolina and move on point-to-point rates, which rates are predicated on a 20,000-pound minimum shipment, with the exception of shipments in cubical pack which has a 32,000-pound minimum for which a basis for constructing rates is published in the tariff.

3. Large quantities of unmanufactured tobacco are packed and pressed into hogsheads, which, when filled, have an average weight of approximately 1,000 pounds. In recent years some is pressed into cubical packs, which have a weight of 1,200 to 1,400 pounds.

4. The average truckload consists of 27 hogsheads and varies in weight from less than 27,000 pounds to possibly 30,000 pounds. Cubical-pack shipments load much heavier.

5. For the most part the carriers haul 9 tiers, with 3 hogsheads per tier, for a truckload.

6. Generally, tobacco packed in hogsheads moves in truckloads of 29 hogsheads. The loading involves the placing of 2 rows of 9 hogsheads each on the bed of the truck and by pyramiding a third row of 9 hogsheads placed between the first 2 rows. In some instances the rows contain 10 hogsheads each, resulting in an overall load of 30 hogsheads.

7. Within recent years the carriers have resorted to what is known as "double decking." In order to "double deck" the carriers use heavy boards which they place across the 2 rows of hogsheads placed on the bed of the truck and then place 2 rows on the boards above the first 2 rows, resulting in the load consisting of 36 hogsheads instead of 27. If the truck bed permits the loading of 10 hogsheads to the row, then the overall load would consist of 40 hogsheads. This method of transportation permits the loading of 36,000 to 40,000 pounds per truckload.

8. The shippers do the loading and unloading and experience some additional effort and expense in loading the larger number of hogsheads on a truck.

9. The carrier incurs a small additional cost in furnishing the boards and cover necessary to the hauling of the larger number of hogsheads.

10. A 38,000-pound shipment at the reduced rates for the same distance will produce for the carrier more revenue than a 27,000-pound shipment under the present rates and will cost the shipper less money than the present rates cost.

11. The filing has the effect of cancelling the point-to-point cubical-pack rate of Burton Lines, Inc., from Rocky Mount to Reidsville. Other than cancelling this part of the cubical-pack tariff the present filing does not affect either the 20,000-pound minimum shipment or the cubical-pack 32,000-pound minimum shipment nor the rates applicable thereunder. The filing leaves in effect Rule 10, which is as follows:

"'When the charge computed on the higher rate at actual weight (but not less than the minimun weight specified for the higher rate) exceeds the charge computed on the lower rate at actual weight (but not less than the minimum weight specified for the lower rate), the latter charge will apply.'"

CONCLUSIONS

Shipments of unmanufactured tobacco products as described in the tariff filing here at issue move between a limited number of places in intrastate commerce in North Carolina. Present rates are point to point and are applied on a 20,000-pound minimum shipment basis, with the exception of shipments in cubical pack which has a 32,000-pound minimum. The present rate structure has been in effect for many years, and regardless of the ability of carriers to haul greater quantities due to improvement in highways, know-how and in enlargement of equipment, there has been no change in the 20,000-pound minimum shipment basis. This is not true in the shipment of other products. In recent years the railroads have built larger cars that hold much larger quantities of tobacco, grain and other products and have thereby been enabled to reduce the rates when the product is shipped in large quantities. The filing here simply offers to the shippers of tobacco an opportunity to ship in heavier loads with some saving in transportation cost, and at the same time enables the carrier to realize more revenue per load for miles traveled than has been available under smaller shipment handling.

The carrier does not have to acquire any new equipment in order to handle the heavier load. He simply acquires several stout boards, and after having loaded in the bottom of the truck 2 rows of hogsheads, side by side, he places the boards on top of these hogsheads and then places 2 rows of hogsheads on top of the bottom ones so as to carry a fourth more hogsheads than has been the customary practice to carry. Under the loading of 3 hogsheads to the tier the ordinary load consists of 27 hogsheads with a weight of approximately 27,000 pounds. With 4 hogsheads to the tier the carrier handles 36 hogsheads on the same trip with a weight of approximately 36,000 pounds. The shipper taking advantage of the opportunity to load heavier receives a small reduction in transportation cost, and the carrier realizes more revenue per mile for the shipment at the reduced rates than it formerly received or will receive for the handling of the smaller load. At the same time, any

shipper and any carrier will be at liberty to continue to handle shipments on the 20,000-pound minimum basis and at the rates which have always been applied. The same rule applies to the shipment in cubical pack and at a 32,000-pound minimum shipment.

Under the alternate rule the shipper will have the advantage of, and the carrier will have to apply to the shipment, the rate that is most favorable to the shipper. In other words, the reduced rates on a 36,000-pound minimum shipment will be applicable only at the point where the cost to the shipper is less than it would be under the application of the rates applicable on the 20,000-pound minimum or the cubical-pack 32,000-pound minimum. This point is between 32,000 and 33,000 pounds and will not adversely affect shipment of 20,000-pound minimum or 32,000-pound minimum but will have the effect of the application of 36,000-pound minimum shipment rates to shipments of 33,000 pounds or more.

The factual situation as developed in the hearing is that some carriers are handling shipments of 38,000 pounds and in some instances possibly more, especially where 10 tiers instead of 9 are placed on a truck at 20,000-pound minimum rates, which fails to give the shipper any advantage whatever of the ability of the carrier, due to improvement in roads and transportation facilities, to handle much heavier shipments.

The Commission realizes that very little, if any, increase in the rates for the transportation of tobacco products involved in this tariff filing has occured in a number of years. However, it seems much more logical if transportation costs have increased that the carriers seek an increase to compensate for such increased cost rather than to continue rates based on a 20,000-pound minimum shipment when the shipment weight has increased so much due to improved conditions. Certainly, the shipper who is in position to ship larger quantities ought to have some consideration for that. At the same time, should it be necessary in order to protect the carriers to increase the rates, then they should be increased on a general basis and not allowed to continue on the unequal basis upon which they are now predicated. We conclude therefore that the rates proposed in the filing predicated upon a 36,000-pound minimum shipment are just and reasonable and that this investigation should be terminated and the file closed.

IT IS, THEREFORE, ORDERED that the rates provided in the tariff filing are just and reasonable and should be permitted to remain in full force and effect; that this investigation be and the same is hereby terminated and the file closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-825, SUB 97

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed)
Increase of 5% in Class and Commodity Rates)
and Charges, Including Minimum Charges,) ORDER
Scheduled to Become Effective November 21, 1966)

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, on January 24-27, 1967

BEFORE: Chairman Harry T. Westcott, and Commissioners Sam O. Worthington, Clarence H. Noah, Thomas R. Eller, Jr. (presiding), and John W. McDevitt

APPEARANCES:

For the Respondents:

J. Ruffin Bailey
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For the Protestant:

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For the Intevenors:

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L.O. Kimberly, Jr.
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For the Using and Consuming Public:

George A. Goodwyn
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For the Commission Staff:

Edward B. Hipp
General Counsel
P.O. Box 991, Raleigh, North Carolina

NOAH, COMMISSIONER: This investigation was instituted by the Commission following the filing, on statutory notice, of tariff schedules to become effective on November 1, 1966, by Motor Carriers Traffic Association, Inc. (MCTA), North Carolina Motor Carriers Association, Inc. (NCMCA), and Southern Motor Carriers Rate Conference (SMCRC), agents for regular and irregular route common carriers of general commodities operating in North Carolina intrastate commerce and participating in the following North Carolina intrastate tariffs:

MCTA Freight Tariff No. 3-E, N.C.U.C. No. 35,
NCMCA Freight Tariff No. 10-D, N.C.U.C. No. 76, and
SMCRC Tariff No. 137-G, N.C.U.C. No. 36.

These three tariff schedules propose an increase of 5% with certain exceptions, in class and general commodity rates and charges, including an increase in the minimum charge for a single shipment to $3.00 per shipment from present charge of $2.25 for distances of 95 miles and less and $2.50 for distances exceeding 95 miles. It is not proposed to increase the volume rates on paper boxes, corrugated, and related items, plywood, veneer or wood, built-up or combined, and pipe, iron or steel, wrought or cast, and fittings, the rates on which are involved in Docket Nos. T-825, Sub 77 and T-825, Sub 85, now pending before the Commission.

The order of the Commission dated November 10, 1966, suspended the proposed increases to March 21, 1967, pending determination of the lawfulness thereof. The suspension period was extended to May 20, 1967, by order dated March 14, 1967. The proceeding was declared to constitute a general rate case under G.S. 62-137. The burden of justifying the increases was placed on respondents by statute and by order of the Commision. The North Carolina Merchants Association protested the increases and the North Carolina Traffic League, Inc., the North Carolina Textile Manufacturers Association, and the Attorney General, through George A. Goodwyn, Assistant Attorney General, representing the using and consuming public, were permitted to intervene. The Commission's staff, through its General Counsel, intervened. All parties actively participated in the investigation.

The position of North Carolina Traffic League, a voluntary non-profit organization of industries, commercial and agricultural organizations, civic bodies and associations, operating in North Carolina, having a common interest in transportation costs and transportation affairs, its membership being comprised of 108 companies doing business in North Carolina, 40 of which attended a joint shipper-carrier meeting preceding the filing of the increases, is that the League not oppose the increase in rates and minimum charges.

North Carolina Textile Manufacturers Association stated its position as being the same as that of the North Carolina Traffic League, Inc. It recognizes that there have been increases in costs since the last general increases in motor vehicle common carrier transportation charges in North Carolina and that, while such increases should be absorbed by increased efficiency of the carriers to the extent possibly apparent, the increased costs have now exceeded the extent to which reasonably they could be absorbed by the carriers and that, if respondents submit evidence justifying the increase in this proceeding, it believes this should enable them to provide better and more dependable transportation service on North Carolina intrastate shipments.

The General Traffic Manager of the American Tobacco Company, with plants in North Carolina, using motor carriers for about 95% of its transportation needs in North Carolina, of which only 5% of its tonnage would be affected by this proceeding, stated the position of his company as being in general accordance with the increases sought by respondents.

A number of representatives of respondents testified relative to their operations and increased costs for transporting property in North Carolina intrastate commerce since its last general increase authorized by the Commission in 1957. Southern Motor Carriers Rate Conference, agent for respondents, presented a cost witness and a traffic statistical witness relative to their study of the operations of 15 carriers which submitted to them statistics for analysis. The study covered the year of 1965. Nine of these carriers attempted to separate their intrastate and interstate revenues and expenses.

The Commission's director of traffic, its economist, director of accounting, and a senior transportation accountant testified and presented many exhibits to show the financial and operating conditions of Class I, II and III carriers engaged in North Carolina intrastate commerce. Statistics in most cases were compiled from annual reports on file with the Commission. The annual reports, including systemwide revenues and expenses, merely show North Carolina revenues and expenses based on mileage operated within the State as compared with the total mileage of all operations. No absolute separation of intrastate and interstate revenues and expenses was feasible. On this basis it is shown that

the operating ratios for Class I and Class II carriers used in the study improved in 1965 in comparison to operating ratios in 1960.

Protestant North Carolina Merchants Association accepted and adopted as its own the testimony of the Commission's director of traffic. This protestant offered no evidence.

The respondents presented exhibits to show that costs of supplies, materials, etc., except cost of trailers, gas and tires, increased substantially in 1966 over costs in 1957, such increases ranging from 2% to 118%; that wages of drivers, helpers, stevedores, etc., increased in 1965 as much as 15.9% over 1964; that there were further wage increases in 1966, and that there would be additional increases in 1967.

Briefs were filed by respondents, the protestant, the Attorney General and the staff.

Based on the evidence adduced in this proceeding, the briefs of the parties and the records of the Commission, we make the following

FINDINGS OF FACT

1. Respondent common carriers participating in MCTA Motor Freight Tariff No. 3-E, N.C.U.C. No. 35, NCMCA Motor Freight Tariff No. 10-D, N.C.U.C. No. 76, and SMCRC Tariff No. 137-G, N.C.U.C. No. 36, containing intrastate rates and charges on class and commodity rated traffic, all of which are subject to the jurisdiction of, and regulation by, this Commission, are in need of, and have justified, an increase in their rates and charges, to meet increased costs of operation to preserve and continue all motor carrier transportation services now afforded this State and to promote and preserve adequate, economical and efficient service to all the communities of the State.

2. Respondents' present rates and charges are not sufficient to permit them to continue an adequate, economical and efficient service to all communities. Some of the respondents have fair and reasonable operating ratios; others have unfavorable operating ratios and operate under conditions that will not accord the shipping and receiving public continued adequate transportation service. To increase the rates and charges of the latter carriers and not do so for the carriers with more favorable operating ratios would result in the diversion of traffic from the less favorable carriers to the strong carriers, all to the detriment of the former. Motor-vehicle common carriers of general commodities must be considered as one group for rate-making purposes in order that the public may have the benefit of a transportation system that will meet public needs at all times. A reasonable, average operating ratio for all carriers as a group produces a uniform rate structure without discrimination, preference or prejudice.

3. Fredrickson Motor Express and Helms Motor Express, of the group of respondents submitting data or statistics to the cost accountant, operate only within the boundary of the State. These two carriers engage in the transportation of interstate traffic to and from points on their lines interchanged with carriers engaged in interstate commerce originating or terminating in states other than North Carolina. The revenues and expenses of the latter are apportioned on a formula, generally a mileage basis, to arrive at a percentage property moves within and without the State of North Carolina. This formula fails to separate actual intrastate movements from interstate movements in order to arrive at competent operating ratios. Neither are the revenues and expenses of Fredrickson and Helms separated to show actual revenues and expenses for transportation of intrastate property only. The commingling of intrastate and interstate revenues and expenses fails to produce competent operating ratios for rate-making purposes.

4. Interstate rates and charges on traffic moving to, from and within North Carolina are on a higher level, mileage considered, than intrastate rates and charges applicable between points in North Carolina. Consolidated systemwide interstate and intrastate revenues and expenses produce lower and more favorable operating ratios than intrastate revenues and expenses at present rates will produce, if such were separated.

5. Respondents, as a group, need and require an increase in their rates and charges and have sustained the burden of justifying an increase of 5% in their rates and charges on all traffic except paper boxes, corrugated, and related items; plywood, veneer or wood, built-up or combined; pipe, iron or steel, wrought or cast, and fittings, in volume quantities, and the minimum charge for a single shipment, which increase of 5% is fair, just and reasonable. Respondents' proposal to increase the minimum charges of $2.25 per shipment for 95 miles and less and $2.50 per shipment for distances exceeding 95 miles to a minimum charge of $3.00 per shipment is not just and reasonable. A minimum charge of $2.75 per shipment for hauls of any distance is fair, just and reasonable.

CONCLUSIONS

G.S. 62-146(h) requires this Commission to give due consideration, among other factors, to the effect of rates upon movement of traffic by the carrier or carriers, for which rates are prescribed; to the need in the public interest of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service, and to the need of revenues sufficient to enable such carriers, under honest, economical and efficient management, to provide such service.

Section 146(g) of Chapter 62 provides that in any proceeding to determine the justness or reasonableness of any rate of any common carrier by motor vehicle, such shall be fixed and approved, subject to the provisions of Section 146(h) on the basis of operating ratios of such carriers, being the ratio of their operating expenses to their operating revenues.

This does not mean, in our opinion, that interstate and intrastate revenues and expenses combined may be accepted to arrive at a common operating ratio for the purpose of making intrastate rates and charges.

The operating ratios of record do not reflect any separation. In giving consideration to the revenues derived from, and expenses of, transporting property moving wholly in intrastate commerce, the resulting operating ratios are important in determining the reasonableness of rates. Interstate rates and charges are on a higher level, mile for mile, than are North Carolina intrastate rates and charges. There is only one terminal expense included in interstate rates on traffic from another state to North Carolina or from North Carolina to another state. Wholly intrastate movements require two terminal operations and the expense thereof in determining intrastate rates and charges.

An examination of the exhibits of record discloses that the combined operating ratios of the Class I and II interstate carriers, performing to some extent an intrastate service, are more favorable than Class III carriers. According to the exhibits, 33 of Class III carriers had operating ratios in 1965 of 100 or higher compared with 5 Class II and no Class I carriers. Thirty-one Class III carriers had operating ratios between 95 and 100, compared with 7 for Class II and 17 for Class I carriers and 23 Class III carriers had operating ratios between 90 and 95 compared with 8 Class II and 10 Class I carriers. These operating ratios, however, do not reflect a separation of interstate and intrastate revenues and expenses as contemplated by G.S. 62-146(h). A rate must not only be fair, just and reasonable to the consumer, but fair, just and reasonable to the carrier, State v. Carolinas Committee for Industrial Power Rates, Etc., 257 N.C. 560. Class II and Class III carriers perform a significant service to the shippers and receivers of freight moving between points in North Carolina and these particular carriers must have rates sufficient to permit them to continue their important service to the public.

In an application by rail carriers for an increase in North Carolina intrastate rates, the North Carolina Supreme Court, in State v. State, 243 N.C. 12, said that the order of the Utilities Commission increasing intrastate rates of state carriers so that such rates would conform with an increase in interstate rates allowed by the Interstate Commerce Commission was invalid where the order was unsupported by proof of the fair value of the properties of

the carriers used and useful in conducting their intrastate business, separate and apart from their interstate business. Although a different section of Chapter 62 governs ratemaking for rail carriers, the principle of separating interstate and intrastate revenues and expenses applies to both modes of transportation.

Costs, however, have increased since 1957 when increases in LTL-AQ rates and the minimum charge per shipment were authorized by this Commission. The last increase in truckload and volume rates was in 1951. Several of the respondents, some operating under union labor contracts, show their driver and stevedore wages to have increased very substantially. Those carriers which do not have union labor contracts must maintain comparable wages in order to retain their driver and stevedore personnel. Their failure to do so would result in loss of their labor, after training them, to other carriers paying higher wages.

With the exception of certian trailer units, equipment costs increased from 10% to 49.9%. Truck and tractor parts appear to have increased materially since 1957. The wages and salaries of clerks and other personnel and social security taxes have also increased substantially.

In consideration of the record in this proceeding and the foregoing Findings of Fact, we conclude that the proposed increase of 5% in rates and charges, other than the minimum charge per shipment, is not unreasonable but is fair, just and reasonable to the carriers and the shipping public. We conclude, further, that the proposed minimum charge of $3.00 per shipment is not just and reasonable but a minimum charge of $2.75 per shipment is fair, just and reasonable to the consumer and to the respondents. The order of suspension will be vacated and the increases found to be just and reasonable allowed to become effective on five days' notice to the Commission.

IT IS, THEREFORE, ORDERED That the orders of the Commission dated November 10, 1966, and March 14, 1967, suspending the proposed increases until May 20, 1967, be, and they are hereby, vacated and respondents allowed to file, on not less than five days' notice to the Commission, tariff schedules to contain an increase of 5% on rates and charges for the transportation of property, except on paper boxes, corrugated, and related items; plywood, veneer or wood, built-up or combined, and pipe, iron or steel, wrought or cast, and fittings, in volume quantities, and allowed to increase its minimum charges per shipment to $2.75 per shipment.

IT IS FURTHER ORDERED That upon the filing of the foregoing tariff schedules, this proceeding be, and the same hereby is, discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 97

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Suspension and Investigation of Proposed Increase of Five Per Cent (5%) in Class and Commodity Rates and Charges, Including Minimum charges, Scheduled to Become Effective November 21, 1966, and January 27, 1967	SUPPLEMENTAL ORDER

BY THE COMMISSION: The schedules involved in this proceeding proposing an increase of five per cent (5%), with certain exceptions, in class and general commodity rates and charges, including a proposed increase in the minimum charge for a single shipment, as enumerated in order herein of November 10, 1966, and supplemental order of January 6, 1967, were suspended by said orders, their application deferred to and including March 21, 1967, an investigation instituted and the matter assigned for hearing on January 18, 1967, later continued to January 24, 1967.

The suspension period of involved schedules was extended to May 20, 1967, by order of March 14, 1967.

The involved schedules consist of suplemental publications to the following tariff schedules of Motor Carriers Traffic Association, Inc., Agent, (MCTA); North Carolina Motor Carriers Association, Inc., Agent, (NCMCA); and Southern Motor Carriers Rate Conference, Agent, (SMCRC):

MCTA Tariff No. 3-E, NCUC No. 35,
NCMCA Tariff No. 10-D, NCUC No. 76,
NCMCA Tariff No. 8-H, NCUC No. 70, and
SMCRC Tariff No. 137-G, NCUC No. 36

Hearing was held January 24, through 27, 1967, when evidence was adduced concerning all rates in issue and the increases proposed in connection therewith. By Order of April 5, 1967, the Commission found, with certain exceptions named therein the proposed increase of five per cent (5%) in rates and charges to be fair, just and reasonable to the carriers and the shipping public. The order vacated the orders of the Commission dated November 10, 1966, and March 14, 1967, which suspended the proposed increases in tariff schedules named therein to May 20, 1967, and authorized the proposed increase to be made effective on five (5) days' notice through the publication of appropriate tariff schedules. Through some unaccountable oversight like action was not taken with respect to supplemental order of January

6, 1967, which suspended the effectiveness of a proposed increase of five per cent (5%) in certain commodity rates published in Section III of NCMCA Tariff No. 8-H, NCUC No. 70, and included said matter within the scope of this proceeding.

The Commission now has for consideration an application filed by North Carolina Motor Carriers Association, Inc., Agent, received April 10, 1967, which petitions the Commission to issue supplemental order in this proceeding vacating its supplemental order of suspension and investigation dated January 6, 1967, and in connection therewith to authorize through appropriate publication the increase of five per cent (5%) proposed in connection with certain commodity rates in its Tariff No. 8-H, NCUC No. 70, to be made effective April 17, 1966, on one (1) day's notice to the Commission and to the public.

Upon consideration of the matter and the Commission being of the opinion that good and sufficient cause has been shown,

IT IS ORDERED That application herein of North Carolina Motor Carriers Association, Inc., Agent, for the issuance of a supplemental order in this proceeding as hereinbefore outlined, be, and the same is hereby, granted.

IT IS FURTHER ORDERED That the supplemental order of the Commission dated January 6, 1967, suspending the effectiveness of schedules named therein to May 20, 1967, be, and same is hereby, vacated.

And IT IS ORDERED That North Carolina Motor Carriers Association, Inc., Agent, be, and the same hereby is, permitted to make effective April 17, 1966, the increase of five per cent (5%) proposed in certain rates in Section III of its Tariff No. 8-H, NCUC No. 70, found by the Commission to be just and reasonable in its order of April 5, 1967, same to be accomplished by the filing of appropriate tariff schedules on one (1) day's notice to the Commission and to the public.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. T-1386

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Joint application to transfer a portion of Certificate No. C-917 from Eastern Motor Lines, Inc., Warrenton, North Carolina, to A & J Motor Lines, Inc., Louisburg, North Carolina	) ORDER APPROVING) TRANSFER OF) PORTION OF) AUTHORITY)

BY THE COMMISSION: The above captioned application was filed with the Commission on January 16, 1967. The matter was set to be heard in the offices of the Commission on February 22, 1967, and notice to the public duly given in the February 1, 1967, issue of the Commission's Calendar of Hearings. The notice in the Calendar of Hearings set forth the purpose and time and place of the hearing with the provision that if no protests were filed by 5:00 p.m., Friday, February 17, 1967, the case would be decided on the basis of the application, the documentary evidence attached thereto and the records of the Commission pertaining thereto and no hearing would be held. No protests were filed.

It appears from the application and a certified copy of the Articles of Incorporation attached thereto that the proposed transferee, A & J Motor Lines, Inc., is a North Carolina corporation, organized on May 3, 1966; that the initial Board of Directors of the corporation are Mack C. Joyner and Audrey H. Joyner, of Louisburg, North Carolina, and J.M. Allen, Jr., and Ann P. Allen, of Raleigh, North Carolina; that the owners and operators of transferee corporation are experienced in the trucking business and are fully qualified, financially and otherwise, to acquire the involved authority and to furnish adequate service on a continuing basis.

It further appears that there are no debts or claims against transferor of the nature specified in G.S. 62-111.

Upon consideration thereof, the Commission is of the opinion and finds that said application should be approved.

IT IS, THEREFORE, ORDERED That the transfer of a portion of Common Carrier Certificate No. C-917, as particularly described in Exhibit B hereto attached, from Eastern Motor Lines, Inc., to A & J Motor Lines, Inc., P.O. Box 237, Louisburg, North Carolina, be, and the same is, hereby approved.

IT IS FURTHER ORDERED That said A & J Motor Lines, Inc., file with the Commission evidence of insurance, tariffs of rates and charges, lists of equipment, designation of process agent and otherwise comply with the rules and regulations of this Commission and institute operations

under the authority herein acquired within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1386 — A & J Motor Lines, Inc.
P.O. Box 237
Louisburg, North Carolina

EXHIBIT B — Irregular Route Common Carrier Authority

Transportation of Group 6, Agricultural Commodities; Group 8, Fertilizer and Fertilizer Materials; Group 9, Forest Products; Group 11, Livestock; and Group 21, Other Specific Commodities, particularly described as animal feeds in bags, including hog feed, chicken feed, dairy feed, dog feed, and manufactured feed for any other domesticated livestock, and, in addition, flour in bags, between all points and places in the State of North Carolina.

DOCKET NO. T-1250, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of The joint application of Bulk Haulers, Inc., for authority to purchase, and Earl Stevens and I.R. Stevens, d/b/a I.J. Stevens & Sons, for authority to convey and transfer, a portion of the operating authority in Common Carrier Certificate No. C-358	) ORDER GRANTING) APPLICATION AND) AUTHORIZING) TRANSFER

HEARD IN: Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on February 28, 1967, at 10:00 a.m.

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah and Thomas R. Eller, Jr.

APPEARANCES:

For the Applicants:

J. Ruffin Bailey
and Kenneth Wooten, Jr.
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina

For the Protestant:

Robert M. Martin
Martin, Whitley and Washington
Attorneys at Law
N.C. National Bank Building
High Point, North Carolina
For: Central Transport, Inc.

WORTHINGTON, COMMISSIONER: The joint application of Bulk Haulers, Inc. (purchaser), and Earl Stevens and I.R. Stevens, d/b/a I.J. Stevens & Sons (sellers), filed with the North Carolina Utilities Commission (Commission) on December 20, 1966, seeks authority for purchaser to acquire from sellers the portion of sellers' operating authority set out in Common Carrier Certificate No. C-358 and described as follows:

(3) Transportation of gasoline storage tanks, structural steel, pipe of all kinds, petroleum containers, such as drums and barrels, cleaning solvents and other petroleum derivatives, including motor oil and greases in bulk and in packages, from all points and places within the counties of Pender, Onslow, New Hanover and Brunswick to all points and places in the State of North Carolina, and return from all points and places within the State to all points and places within the counties of Pender, Onslow, New Hanover and Brunswick.

LIMITATION: Truck Load Only.

The application was scheduled for hearing and notice of the time and place for hearing published in the Calendar of Hearings issued on January 4, 1967. In due time Central Transport, Inc., of High Point, intervened and filed protest.

Hearing was held in the Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on February 28, 1967, as scheduled. Purchaser and sellers, together with protestant, were present with witnesses and represented by counsel.

From the evidence offered at the hearing by all the parties we make the following

FINDINGS OF FACT

1. Sellers, based in Wilmington, are the owners and holders of irregular route Common Carrier Certificate No. C-358 issued by the Commission and are subject to the jurisdiction of the Commission.

2. Purchaser is a North Carolina corporation based in Wilmington, North Carolina, and holds irregular route common carrier authority by virtue of Common Carrier Certificate No. C-862 issued it by the Commission and is subject to the jurisdiction of the Commission.

3. Purchaser and sellers have entered into a written agreement wherein purchaser has agreed to acquire from sellers, and sellers have agreed to transfer to purchaser, that portion of sellers' operating authority in Certificate No. C-358 fully described and set out in Exhibit B hereto attached, which agreement has been made subject to the approval of the Commission.

4. Sellers have operated continuously under their authority and have not allowed the operating authority to become dormant.

5. Purchaser is actively engaged in operating under its authority, owns and operates a large number of units of equipment, is in financial condition to assume the obligation of operating the authority it seeks to purchase and is fit, able and willing to perform such operation on a continuing basis.

CONCLUSIONS

Sellers seek permission and authority to transfer to purchaser that portion of sellers' operating authority designated in their certificate as Item (3). Sellers have other authority in their certificate and will continue to operate as an irregular route carrier. Sellers have consistently and actively carried on operations under their authority, but the transportation of the items set out in Item (3), which is the subject for sale, has not been as great as has been the case with other commodities they transport. Nevertheless, sellers have been able and willing to meet needs and demands for the transportation of all commodities described in their authority. It has not been the policy of the Commission to declare a carrier's authority dormant in part and active in part, or to strike out one portion of a carrier's authority, or deny the sale of a portion of the authority simply because the carrier had not been called upon and required to operate in the transportation of those commodities as actively as in others. The Commission has heretofore on numerous occasions allowed a carrier to transfer and convey a portion of such carrier's operating authority and retain other portions thereof.

Protestant seems to take the position that sellers have not engaged in the transportation of cleaning solvents and other petroleum derivatives, including motor oil and greases in bulk and in packages, and that therefore this portion of the authority should be striken out and the sale and transfer thereof not be permitted. We do not agree that we should sift through the authorities of the several common carriers, and upon finding of some isolated instances where carrier cannot show actual transportation of that particular commodity we should eliminate same from its operating authority. An irregular route common carrier operates on the basis of call and demand. The most the carrier can do is to hold himself out to serve the public, make his service available to the public and meet all public demands and requests. Having done this, the carrier has fulfilled requirements, and his authority cannot be declared dormant.

Purchaser is actively engaged in the transportation of liquid nitrogen, sulphuric acid, milk and milk products, together with phosphate products, and is in position to fulfill the public need for the transportation of the commodities described in the authority it seeks to purchase. It is also in position to give the public good service in this connection and fulfill the public need satisfactorily.

We conclude that sellers are entitled to transfer and convey to purchaser the operating authority described in Item (3) of sellers' operating authority set out in Common Carrier Certificate No. C-358 in accordance with the terms of the contract entered into between sellers and purchaser.

IT IS, THEREFORE, ORDERED that Earl Stevens and I.R. Stevens, d/b/a I.J. Stevens & Sons, be and they are hereby authorized to transfer and convey to Bulk Haulers, Inc., that portion of their operating authority under Common Carrier Certificate No. C-358 designated as Item (3) and more particularly in accordance with Exhibit B hereto attached.

IT IS FURTHER ORDERED that the portion of the authority designated Item (3) in Common Carrier Certificate No. C-358, here permitted to be transferred and conveyed, be removed from Common Carrier Certificate No. C-358 and added to the purchaser's Common Carrier Certificate No. C-862.

IT IS FURTHER ORDERED that purchaser may begin operations under this authority when it has filed tariff schedules of rates and charges, evidence of insurance coverage and otherwise complied with the rules and regulations of the Commission, all of which should be done within 60 days from the date of this order.

IT IS FURTHER ORDERED that purchaser and sellers immediately notify the Commission when the sale has been consummated.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1250, SUB 7

Bulk Haulers, Inc.
420 West Shipyard Boulevard
Wilmington, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

(3) Transportation of gasoline storage tanks, structural steel, pipe of all kinds, petroleum containers, such as drums and barrels, cleaning solvents and other petroleum derivatives, including motor oil and greases in bulk and in packages, from all points and places within the counties of Pender, Onslow, New Hanover and Brunswick to all points and places in the State of North Carolina, and return from all points and places within the State to all points and places within the counties of Pender, Onslow, New Hanover and Brunswick.

LIMITATION: Truck Load Only.

DOCKET NO. T-1362, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application for sale and transfer of Permit No. P-165 from V.K. Foy, Route 1, Box 413-B, Wilmington, North Carolina, to Jerry R. Williams, d/b/a Commercial & Package Delivery Service, 3707 Wrightsville Avenue, Wilmington, North Carolina) ORDER APPROVING SALE AND TRANSFER

HEARD IN: The Commission Hearing Room, Old YMCA Building, Raleigh, North Carolina, on October 18, 1967, at 2:00 p.m.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

For the Applicants:

Jerry R. Williams
3707 Wrightsville Avenue
Wilmington, North Carolina
For: Himself

No Protestants.

ELLER, COMMISSIONER: This is a joint application by which Jerry R. Williams, d/b/a Commercial & Package Delivery Service seeks approval to purchase and operate under, and V.K. Foy seeks to sell, Contract Carrier Permit No. P-165.

After notice, hearings were held with parties present as captioned.

Upon the evidence adduced, the Commission makes the following

FINDINGS OF FACT

1. Applicant, Jerry R. Williams, d/b/a Commercial & Package Delivery Service, operates as a proprietorship located in Wilmington and is a duly authorized motor common carrier holding, owning, and operating under North Carolina Common Carrier Certificate No. C-919, authorizing him as follows:

"Irregular Route Common Carrier Authority

"Group 15, Retail Store Delivery Service

"Group 21, Packages and parcels not exceeding three (3) per shipment nor an aggregate weight of more than one hundred (100) pounds per shipment.

"(a) From Wilmington to all points within 65 miles thereof;

"(b) From all points within 65 miles of Wilmington to Wilmington."

2. Applicant, V.K. Foy, is also a proprietorship located in Wilmington, New Hanover County, and is the holder, owner, and active operator of and under Contract Carrier Permit No. P-165 authorizing the following:

"Contract Carrier Authority

"Transportation of drugs, pharmaceuticals, patent and proprietary medicines, and sundries between the place of business of Bellamy Drug Company (branch of King Drug Company), Wilmington, North Carolina, and points lying on and east of U.S. Highway 117 to where such highway

intersects U.S. Highway 301 near Wilson, thence points lying on and east of U.S. Highway 301 to the Virginia Line.

"Transportation of gas distribution system supplies, meters, regulators and other items used in the distribution of natural gas, and emergency shipments of appliances, between the plant of Tidewater Natural Gas Company in Wilmington, N.C., and branches in Fayetteville, N.C., Kinston, N.C., New Bern, N.C., and Washington, N.C."

3. The two Applicants have orally contracted with each other for Williams to buy and Foy to sell Contract Carrier Permit No. P-165 for the total cash sum of $1,500, of which $1,000 has been paid with the balance due on consummation of the transfer on approval of the Commission. Williams is also purchasing Foy's rolling equipment, but the sums specified are for the permit alone.

4. Applicant, Williams, now utilizes a number of pieces of rolling equipment valued at about $10,500 and shows total assets of $33,500, with net worth of about $15,000.

5. In the course of his operations, Williams serves Bellamy Drug Company for those packages and distances within the scope of his authority, while Foy has been serving the same drug company under his contract permit in moving packages either larger or for greater distances than Williams is authorized to move them. The drug firm needs a single carrier to handle all shipments heretofore handled by the two (2) carriers and will contract with Williams to the same extent as heretofore with Foy. Williams will apply the same rates in the contract operation as applied in his common carrier operations for like weight, sizes, and distances. Williams has contacted the successor in title to the contractee, Tidewater Natural Gas Corporation (North Carolina Natural Gas Corporation), and the successor corporation will contract with, and needs, Williams' services to substantially the same extent as heretofore with Foy.

6. Applicant, Foy, has made statement under oath that there are no outstanding, unsatisfied debts or claims as specified under G.S. 62-111(c).

CONCLUSIONS

1. G.S. 62-264 provides that no person shall hold both a common carrier certificate and a contract carrier permit unless the Commission finds that the public interest so requires. We find, conclude, and hold under the facts found that the holding of the two (2) specific authorities here by Williams is required by the public interest in that: (a) the two carriers separately cannot meet, and have not met, the needs of Bellamy Drug Company as adequately, efficiently, and economically as could the one carrier; (b) Contract Carrier Permit No. P-165 involves larger shipments

for greater distances than does Williams' present common carrier authority and, therefore, will not be harmfully duplicative of Williams' present authority; (c) concentrating the two authorities in one operator will tend to promote operating economies both to Williams and to shippers of commodities he is authorized to transport.

2. The sale and transfer here proposed is justified by the public convenience and necessity as contemplated by G.S. 62-111(a).

3. Applicant, Williams, is financially solvent and is in all respects fit, ready, willing, and able on a continuing basis to provide the services now required under Contract Carrier Permit No. P-165.

4. Applicants have borne the burden of proof provided by the statute and the proposed sale and transfer should be approved.

Accordingly, IT IS ORDERED:

1. That the application in this docket be, and it hereby is, approved and that Applicant, V.K. Foy, be, and he hereby is, permitted to sell the authority contained in Contract Carrier Permit No. P-165 to Jerry R. Williams, d/b/a Commercial & Package Delivery Service, and Jerry R. Williams is hereby authorized to purchase and thereafter operate under the authority of said permit to the same extent as V.K. Foy has heretofore been authorized.

2. Applicant, V.K. Foy, shall forthwith submit Contract Carrier Permit No. P-165 to the Chief Clerk of this Commission. Upon receipt of said permit the same shall be cancelled and a new permit of the same number shall be issued to Jerry R. Williams, d/b/a Commercial & Package Delivery Service, in accordance with Exhibit A hereto attached and made a part hereof.

3. Applicant, Jerry R. Williams, is hereby allowed thirty (30) days from the date this order issues to complete his transaction with Applicant, V.K. Foy, to file with this Commission copies of his contracts with Bellamy Drug Company and North Carolina Natural Gas Corporation, his list of equipment to be used in the operation, a schedule of applicable minimum rates and charges, his amended evidence of security for the protection of the travelling and shipping public, and otherwise comply with all rules and regulations of this Commission.

4. Pending compliance with all provisions of this order and issuance of a new contract carrier permit to Applicant, Jerry R. Williams, this order shall operate as full and complete authority for said operations. All operations by

Applicant, V.K. Foy, under Contract Carrier Permit No. P-165 shall cease and determine on the date this order issues.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1362, SUB 1

Jerry R. Williams, d/b/a
Commercial & Package Delivery Service
3707 Wrightsville Avenue
Wilmington, North Carolina

Contract Carrier Authority

EXHIBIT A

Transportation of drugs, pharmaceuticals, patent and proprietary medicines, and sundries between the place of business of Bellamy Drug Company (branch of King Drug Company), Wilmington, North Carolina, and points lying on and east of U.S. Highway 117 to where such highway intersects U.S. Highway 301 near Wilson, thence points lying on and east of U.S. Highway 301 to the Virginia Line.

Transportation of gas distribution system supplies, meters, regulators, and other items used in the distribution of natural gas, and emergency shipments of appliances, between the plant of North Carolina Natural Gas Corporation in Wilmington, North Carolina, and branches in Fayetteville, North Carolina, Kinston, North Carolina, New Bern, North Carolina, and Washington, North Carolina.

DOCKET NO. T-645, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Sale and Transfer of Common Carrier Certificate No. C-498 from James C. Cope, d/b/a Cope Trucking Company, 35 Garfield Street, Asheville, North Carolina 28803, to Fredrickson Motor Express Corporation, 3400 North Graham Street, Charlotte, North Carolina 28206) ORDER

HEARD IN: The Hearing Room of the Commission, October 12, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott (presiding), and Commissioners John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Petitioners:

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina
For: Fredrickson Motor Express Corporation

Herbert L. Hyde
Van Winkle, Walton, Buck & Wall
Attorneys at Law
P.O. Box 7376, Asheville, North Carolina
For: James C. Cope, d/b/a
Cope Trucking Company

For the Protestants:

T.D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
327 Hillsborough Street
Raleigh, North Carolina
For: Overnite Transportation Company
Thurston Motor Lines, Inc.

WESTCOTT, CHAIRMAN: By a joint petition filed in the captioned matter, James C. Cope, d/b/a Cope Trucking Company, for convenience referred to as Vendor, seeks to sell and transfer the operating authority set forth in Common Carrier Certificate No. C-498, heretofore issued to Vendor by this Commission, to Fredrickson Motor Express Corporation, Vendee. The Vendor is both a regular route common carrier of property in intrastate commerce in North Carolina and an irregular route common carrier of property in intrastate commerce. The Vendee is a regular route common carrier operating under the authority granted by this Commission in Common Carrier Certificate No. C-1. At the call of the case for hearing, Vendor and Vendee were present and represented by counsel. Protestants were present and represented by counsel.

The evidence in support of the petition tends to show that Vendor has been in the business of transporting property by motor vehicle since 1952; that the operating authority contained in Certificate No. C-498 was acquired either by purchase or through application for a certificate of convenience and necessity, authorized by this Commission; that Vendor is the sole owner of the operating authority

contained in Certificate No. C-498; that during the period he has held his certificate he has exercised the transportation authority authorizing regular route common carrier operations throughout his territory, as contained in said certificate, and has, on occasions, when called upon by the public, transported into and between points on his irregular route operating authority; that he has held himself out to serve all the territory embraced in Common Carrier Certificate No. C-498.

The evidence and contentions of the protestants are that they raise no question as to the exercise of the regular route common carrier authority contained in Vendor's certificate, but do question an alleged dormancy with respect to the irregular route common carrier operations in Vendor's certificate.

Attorneys for petitioners and protestants stipulate that Vendee has been operating in intrastate commerce in the transportation of general commodities, and further, that Vendee is fit and able and otherwise qualified to render the service and carry out the terms of the contract for purchase of the operating authority sought to be transferred in this proceeding.

FINDINGS OF FACT

In consideration of the evidence adduced, the Commission is of the opinion and finds:

1. That Vendor is the owner and holder of Common Carrier Certificate No. C-498 issued by this Commission pursuant to the provisions of law governing the operation of motor carriers of property in intrastate commerce.

2. That Vendee is the owner and holder of Common Carrier Certificate No. C-1 issued by this Commission for the transportation of property by motor carrier in intrastate commerce and has been engaged in the transportation of property for many years and is fit, willing and able to serve the area of the State of North Carolina as a common carrier as set forth in Certificate No. C-498.

3. That the operating authority of Vendor has not heretofore been found by this Commission to be dormant, and that there is no conclusive proof in the evidence that the operating authority is now dormant.

4. That no debts or claims exist as enumerated under the provisions of G.S. 62-111(c).

5. That Vendor has agreed to sell and Vendee has agreed to purchase the operating authority contained in Certificate No. C-498 under the terms and conditions set forth in Exhibit B attached to and made a part of the application herein.

CONCLUSIONS

G.S. 62-111, among other things, provides for the transfer of franchises and authorizes the Commission to approve such transfer if justified by public convenience and necessity. Vendor has been engaged in the transportation of property by motor vehicle for many years and, according to the records of this Commission, has not violated the provisions of applicable law nor the rules and regulations promulgated by the Commission pursuant thereto. He has solicited business from shippers, has held himself out to transport property and, according to the evidence, has not refused to transport any property tendered to him as a common carrier. It is the Commission's opinion, and we conclude, that the fact that the Vendor has been serving the public in the manner in which he has been serving is evidence of a need by the public for the transportation service heretofore furnished by the Vendor, and that Vendee in carrying on the operations of Vendor will serve the needs of the shipping and receiving public.

We further conclude and hold that the Vendor has the right to sell and the Vendee is qualified to purchase and operate the operating authority sought to be transferred in this proceeding.

IT IS, THEREFORE, ORDERED That the joint petition filed by James C. Cope, d/b/a Cope Trucking Company, and Fredrickson Motor Express Corporation for sale and transfer of Common Carrier Certificate No. C-498 by James C. Cope, d/b/a Cope Trucking Company, to Fredrickson Motor Express Corporation be, and the same is hereby, approved.

IT IS FURTHER ORDERED That the operating authority of Fredrickson Motor Express Corporation be amended so as to include the operating authority herein transferred by this action in all respects, except where the authority transferred by Cope duplicates the authority now held by Fredrickson the amended certificate of Fredrickson shall exclude any duplication.

IT IS FURTHER ORDERED That Fredrickson Motor Express Corporation advise this Commission in writing when the sale and transfer of the operating authority of James C. Cope, d/b/a Cope Trucking Company, to Fredrickson Motor Express Corporation has been consummated, and upon such consummation the temporary authority heretofore granted Fredrickson Motor Express Corporation to operate the authority now contained in Certificate No. C-498 be cancelled.

IT IS FURTHER ORDERED That a copy of this order be transmitted to each of the petitioners and to each of the attorneys of record in this cause.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1307, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application for the approval of the transfer) ORDER
of Certificate No. C-85 from C.L. Helderman,) APPROVING
d/b/a Helderman Trucking Company, to Helderman) TRANSFER
Trucking Company, Inc.)

By application filed with the Commission on April 28, 1967, authority is sought to transfer Common Carrier Certificate No. C-85, together with the operating rights contained therein, from C.L. Helderman, d/b/a Helderman Trucking Company (Transferor), to Helderman Trucking Company, Inc. (Transferee).

It appears that the Corporation, Helderman Trucking Company, Inc., was organized on April 10, 1967, under the laws of the State of North Carolina; that the initial Board of Directors are C.L. Helderman, Kathleen S. Helderman and Johnny H. Cook, all of Gold Hill, North Carolina; that the proposed transfer will not involve any substantial change of ownership or control of the business; that there are no debts or claims against the transferor of the nature specified in G.S. 62-111 and that, although transferee corporation has assets consisting of only $300.00, C.L. Helderman, individually, will contribute capital contributions to the said corporation in such amount from time to time as may be needed to place the corporation in financial condition to meet such reasonable demands as the business may require.

Upon consideration thereof, the Commission is of the opinion and finds that said application should be approved.

IT IS, THEREFORE, ORDERED That the transfer of Common Carrier Certificate No. C-85, together with the operating rights described in Exhibit B hereto attached and made a part hereof, from C.L. Helderman, d/b/a Helderman Trucking Company, to Helderman Trucking Company, Inc., be, and the same is, hereby approved.

IT IS FURTHER ORDERED That Helderman Trucking Company, Inc., file with the Commission appropriate evidence of insurance, tariffs of rates and charges, lists of equipment, designation of process agent and otherwise comply with the rules and regulations of the Commission and institute

operations under the authority herein acquired within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1307, SUB 1

Helderman Trucking Company, Inc.
Albemarle Road
Gold Hill, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

(1) Transportation of general commodities, except those requiring special equipment and except unmanufactured leaf tobacco and related commodities described in N.C.U.C. Docket No. 2417, over irregular routes, between all points and places on, east and south of U.S. Highway 29 from the Virginia-North Carolina State Line to Reidsville, thence U.S. Highway 158 to Mocksville, thence U.S. Highway 64 to Statesville, thence U.S. Highway 21 to intersection with N.C. 115, thence N.C. 115 to intersection with U.S. 21 and on U.S. 21 to Charlotte, thence U.S. Highway 29 to the North Carolina-South Carolina State Line.

(2) Transportation of personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals, or other establishments; and articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, between all points and places throughout the State of North Carolina. This authority does not

include materials used in the manufacture of furniture and the manufactured products hauled to or from such manufacturing plants.

(3) Transportation, over irregular routes, of commodities of iron and/or steel, including but not limited to prefabricated bars to dimensions, steel pipe, steel windows, concrete reinforcing steel bars, concrete reinforcing steel wire mesh, steel culvert pipe (corrugated), cast iron solid pipe, steel trusses, girders, channels, beams, bases and structural forms, equipment and building materials used by bridge, culvert and building contractors, steel kiln cars, rails, accessories and equipment, which may be transported on ordinary vehicular equipment for the over-the-road portion of the transportation and does not require special equipment, specialized handling or rigging, to and from all points in that part of North Carolina on, west and north of U.S. Highway 29 from the Virginia-North Carolina State Line to Reidsville, thence U.S. Highway 158 to Mocksville, thence U.S. Highway 64 to Statesville, thence U.S. Highway 21 to intersection with N.C. 115, thence N.C. 115 to intersection with U.S. 21 and on U.S. 21 to Charlotte, and thence U.S. Highway 29 to the North Carolina-South Carolina State Line.

LIMITATION: Truck load lots only.

DOCKET NO. T-200, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application to transfer Certificate No. C-212 from Garrett Transport, Incorporated, Greenville, to Martin Oil Company, Kinston, North Carolina) ORDER APPROVING APPLICATION

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, on March 1, 1967

BEFORE: Commissioners Clarence H. Noah (Presiding), Sam O. Worthington and John H. McDevitt

APPEARANCES:

For the Applicants:

J. Ruffin Bailey
Bailey, Dixon and Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina

For the Protestants:

Thomas Steed, Jr.
Allen, Steed and Pullen
Attorneys at Law
P.O. Box 2058, Raleigh, North Carolina

NOAH, COMMISSIONER: This is a joint application of Martin Oil Company, 501 Abbott Street, Kinston, North Carolina (transferee), and Garrett Transport, Incorporated, 208 West Tenth Street, Greenville, North Carolina (transferor), sometimes herein called applicants, filed with the Commission on November 18, 1966, in which authority is sought to transfer Certificate No. C-212, containing authority to transport petroleum products and liquefied petroleum gas, in bulk, in tank trucks, from, to and within the area or territory authorized in the said certificate from transferor to transferee.

Notice of the application and hearing thereon was published in the Commission's Calendar of Hearings issued December 1, 1966. On December 29, 1966, the following carriers (protestants) jointly filed their protests against the proposed transfer and moved to intervene, which intervention was permitted at the hearing on March 1, 1967:

East Coast Transport Company, Incorporated
Goldsboro, North Carolina

H & P Transit Company
Kinston, North Carolina

M & M Tank Lines, Inc.
Greensboro, North Carolina

Maybelle Transport Company
Lexington, North Carolina

Petroleum Transportation, Inc.
Gastonia, North Carolina

Tidewater Transit Co., Inc.
Kinston, North Carolina

The hearing was originally set for January 6, 1967, but postponed upon request of the applicants.

Protestants claim that the sale and transfer of these franchise rights is not in the public interest, is not justified by the public convenience and necessity, and is contrary to the transportation policy in the Public Utilities Act of 1963 in that transferor has discontinued and abandoned the authority and is, therefore, dormant; that the sale and transfer of these rights to transferee would amount to the creation of a new service and authority which is not justified by public convenience and necessity; that the terms and provisions of the sales agreement are contrary to the public interest; that applicants have failed to comply with the rules and regulations of the Commission, particularly Rule R2-8(b), and that the transfer of Certificate No. C-212 will adversely affect the services rendered by protestants, would deprive protestants of commodities which they are authorized to transport, would unnecessarily duplicate their franchise rights, and would be inconsistent with the public interest.

Protestants caused to be served a Subpoena Duces Tecum on C. Dwight Garrett, an officer of transferor, to appear at the hearing with records of its operations for specified periods. The said officer, C. Dwight Garrett, appeared at the hearing with freight bills, bills of lading, lease agreements, and other available documents.

According to the evidence, transferor acquired in 1961 from Hinson Transport Company authority to engage in the transportation of petroleum products and by order of this Commission on March 12, 1963, transferor and other authorized transporters of petroleum and petroleum products, in bulk, in tank trucks, were authorized to transport also liquefied petroleum gas, in bulk, in tank trucks, from all originating terminals of such liquefied petroleum gas to points within the territory which authority was granted to transport petroleum products. Transferor never engaged in the transportation of liquefied petroleum gas nor did it ever acquire the type of equipment needed for such transportation. It did engage in the transportation of petroleum products, in bulk, in tank trucks, until April 7, 1966, and held itself out to transport such until October 25, 1966. In 1965, transferor agreed to sell these rights to another carrier, which carrier agreed to purchase them. Prior to the hearing on the application filed in that proceeding, the proposed purchaser withdrew. In the meantime, transferor had disposed of its equipment but continued operations in the transportation of petroleum products in leased equipment until April, 1966, at which time it ceased operations.

At the time of the filing of the application in this proceeding, transferor was not exercising the authority granted by Certificate No. C-212, its insurance having been canceled effective October 25, 1966. By order dated November 1, 1966, the Commission suspended transferor's operating authority and required it to appear before the Commission on November 18, 1966, and show cause why its

authority should not be revoked. Upon consideration of transferor's motion to continue the hearing, filed November 6, 1966, pending consideration of the application to transfer the certificate from Garrett to transferee, Martin Oil Company, the Commission, by order dated November 6, 1966, allowed the motion but continued the suspension of the operating authority pending determination of the application in this docket.

Applicants on November 15, 1966, entered into a contract to transfer the authority in Certificate No. C-212 from Garrett to Martin for consideration of $4,000, subject to approval by this Commission.

Transferee, Martin Oil Company, although it has engaged only in the purchase and sale of petroleum products, has never engaged in the transportation of such products except as a private carrier of its own property. None of the protestants ever transported any of transferee's products. Transferee, a North Carolina corporation, among other things, conducts a business for the general retail or wholesale of gasoline and oil and other petroleum products, maintains a 500,000-gallon storage tank to which it transports, as a private carrier, petroleum products and from which it distributes such products to its customers. It proposes, if this application is approved, to organize and incorporate a transportation company to transport as a common carrier for compensation its own products and products of others who may desire to utilize its common carrier transportation facilities.

Protestants presented no evidence to support their contentions as submitted in their protest against the granting of the application. They relied on an examination of transferor's records and cross-examination of applicants' witnesses. They offered by reference, however, certificates, financial statements, and equipment lists presently on file with the Commission.

Upon consideration of the evidence adduced of record, as well as the records of the Commission, we make the following

FINDINGS OF FACT

1. Garrett Transport, Incorporated, is a common carrier, subject to the jurisdiction of this Commission, authorized to transport petroleum products and liquefied petroleum gas, in bulk, in tank trucks, from and to points and places within the territory described in Exhibit B hereto attached, and has engaged in the transportation of petroleum products since it acquired the authority, except for the period between April 7, 1966, and October 25, 1966, during which period it ceased operations for reasons beyond its control. Subsequent to the latter date, its operations have been under suspension by order of this Commission due to cancellation of insurance although, during the period of cessation of operations, it held itself out to transport

petroleum products which might be offered. Transferor has agreed in writing to sell its certificate to Martin Oil Company, Kinston, North Carolina, and the latter, by the same written agreement, has agreed to buy the same for a consideration of $4,000.

2. Transferor has certified to the Commission that it does not owe any debts or claims of which it has knowledge or notice for taxes due the State, wages due employees, unremitted C.O.D. collections due shippers, loss of or damage to goods, overcharges, or interline accounts, all as enumerated in G.S. 62-111(c).

3. Transferee, Martin Oil Company, is a North Carolina corporation, incorporated on June 19, 1957, and, in connection with its business, has engaged in the transportation of its own products as a private carrier. To this extent, it has experience in operating motor vehicles containing petroleum products over the highways of the State of North Carolina. It presently operates one tractor-trailer unit and its net worth is $206,642.

4. The transfer of Certificate No. C-212 to transferee will not create an additional carrier in competition with existing carriers and will be in the public interest.

5. Martin Oil Company of Kinston, North Carolina, is fit, willing and able to engage in the transportation of petroleum products as described in Exhibit B hereto attached within the territory therein described.

CONCLUSIONS

In the sale of operating rights, the Commission considers at least five things are required, i.e.:

1. that the seller is the owner and operator of the rights;

2. that the operation has not become dormant;

3. that there is a contractual agreement between the seller and the purchaser for the sale;

4. that the purchaser is fit, able and willing to operate the authority; and

5. that the approval is justified by the public convenience and necessity.

The certificate proposed to be transferred from Garrett Transport, Incorporated, to Martin Oil Company contains authority to transport petroleum products and liquefied petroleum gas, in bulk, in tank trucks, within the defined area as described in Exhibit B hereto attached. We conclude that the applicants have met the foregoing requirements and

should be granted a certificate authorizing the service provided in the certificate.

We conclude further that the cessation of operations between April 7, 1966, and October 25, 1966, which protestants aver amounted to an abandonment and hence dormancy of operations, was involuntary and resulted for reasons beyond the control of Garrett and that during the said period Garrett was ready and willing to transport petroleum products within the scope of its certificate if such were offered for transportation. The cessation of operations admitted by Garrett was not a willful abandonment, and therefore, not within the purview of G.S. 62-112. Its tariffs of rates and charges were not canceled but remained on file with the Commission.

IT IS, THEREFORE, ORDERED That Certificate No. C-212 authorizing the transportation of petroleum products and liquefied petroleum gas, in bulk, in tank trucks, as described in Exhibit B attached hereto and made a part hereof be, and the same hereby is, transferred from Garrett Transport, Incorporated, Greenville, North Carolina, to Martin Oil Company, Kinston, North Carolina, only when the latter has furnished evidence of insurance coverage, filed its tariff schedules of rates and charges, and otherwise complied with the rules and regulations of the Commission not later than 30 days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.
This the 15th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-200, SUB 6

Martin Oil Company
501 Abbott Street
Kinston, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

(1) Transportation of petroleum products, in bulk, in tank trucks, from existing originating terminals at or near Wilmington, Morehead City, River Terminal, Thrift, Friendship, Selma, Apex, Fayetteville, and Salisbury to points within and east of the counties of Surry, Wilkes, Iredell and Mecklenburg.

(2) Transportation of liquefied petroleum gas, in bulk, in tank trucks, from all originating terminals of such liquefied petroleum gas to points

within the territory described in above paragraph (1).

NOTE: Amended to include Beaufort as an originating terminal. See General Order No. T-2, dated March 24, 1954.

DOCKET NO. T-200, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for the approval of the transfer of Certificate No. C-212, together with the operating rights contained therein, from Martin Oil Company (Transferor) to Martin Transport Co., Inc. (Transferee)	)	ORDER APPROVING TRANSFER

By application filed with the Commission on July 10, 1967, authority is sought to transfer Common Carrier Certificate No. C-212, together with the operating rights contained therein, from Martin Oil Company (Transferor), to Martin Transport Co., Inc. (Transferee).

It appears from the application that Transferor, Martin Oil Company, is a North Carolina Corporation, the same being a closely held corporation with all stock being held in the name of Albert C. Martin and his wife, Nancy K. Martin; that Transferee, Martin Transport Co., Inc., is a North Carolina Corporation, organized on June 21, 1967, under the laws of the State of North Carolina, and that Albert C. Martin and his wife, Nancy K. Martin, are the owners of all but one qualifying share of stock in Martin Transport Co., Inc., It further appears that no change in ownership or management is contemplated and that the owners only desire to transfer the certificate from the Corporation, Martin Oil Company, to Martin Transport Co., Inc., in order to completely separate the transportation company from the distributing company.

It further appears that there are no debts or claims against Transferor of the nature specified in G.S. 62-111 and that Transferee Corporation is qualified financially to assume control of the operating rights contained in said certificate and provide adequate and continuing service thereunder.

Upon consideration thereof, the Commission is of the opinion and finds that said application should be approved.

IT IS, THEREFORE, ORDERED That the transfer of Common Carrier Certificate No. C-212, together with the operating rights described in Exhibit B hereto attached and made a part hereof, from Martin Oil Company, to Martin Transport Co., Inc., be, and the same is, hereby approved.

IT IS FURTHER ORDERED That Martin Transport Co., Inc., file with the Commission appropriate evidence of insurance, tariffs of rates and charges, lists of equipment, designation of process agent and otherwise comply with the rules and regulations of the Commission and institute operations under the authority herein acquired within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of July, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-200, SUB 7

Martin Transport Co., Inc.
501 Abbott Street
Kinston, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

(1) Transportation of petroleum products, in bulk, in tank trucks, from existing originating terminals at or near Beaufort, Wilmington, Morehead City, River Terminal, Thrift, Friendship, Selma, Apex, Fayetteville, and Salisbury to points within and east of the counties of Surry, Wilkes, Iredell and Mecklenburg.

(2) Transportation of liquefied petroleum gas, in bulk, in tank trucks, from all originating terminals of such liquefied petroleum gas to points within the territory described in above paragraph (1).

DOCKET NO. T-1196, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application for sale and transfer of Certificate No. C-407 from G & V Trucking Company, Inc., 505 Highway 29, Concord, North Carolina, to Northeastern Trucking Company, 2508 Starita Road, P.O. Box 1493, Charlotte, North Carolina 28201) ORDER GRANTING SALE AND TRANSFER

ELLER, COMMISSIONER: This is a joint application filed November 16, 1966, and accompanied by a petition for temporary authority. After careful consideration of the filings and the facts contained therein, Commission order

issued November 23, 1966, approving the temporary lease of authority as requested. The application for the sale and transfer of the authority was set for hearing at 2:00 p.m. on Tuesday, January 10, 1967. The Calendar of Hearings issued on December 1, 1966, in which notice of the application and date of hearing thereon was published, carried the following notation:

> "If no protests are filed by 5:00 p.m., Thursday, January 5, 1967, this case will be decided on the basis of the application, the documentary evidence attached thereto and the records of the Commission pertaining thereto, and no hearing will be held."

We received no protests or motions to intervene and, therefore, have decided this matter on the verified pleadings and the Commission's relevant records.

We make the following

FINDINGS OF FACT

1. Applicant, G & V Trucking Company, Inc., is a corporation operating from Concord, Cabarrus County, North Carolina, under the motor freight common carrier authority contained in North Carolina Utilities Commission Certificate No. C-407, to wit:

> Transportation of general commodities, except those requiring special equipment, over irregular routes between points within a radius of twenty-five (25) miles of Concord; from said area to points and places throughout the State; and from points and places throughout the State to points and places within a radius of twenty-five (25) miles of Concord.

2. Applicant, Northeastern Trucking Company, is a North Carolina corporation holding irregular route common carrier operating authority under North Carolina Utilities Commission Certificate No. C-833. Northeastern Trucking Company shows that it has been continuously engaged in operations as a common carrier of property by motor vehicle since its incorporation on January 3, 1948. It also shows total assets of $543,102.69.

3. G & V Trucking Company, Inc., proposes to sell and Northeastern Trucking Company proposes to purchase the entire operating authority held by G & V Trucking Company as contained in North Carolina Utilities Commission Certificate No. C-407, together with the operating equipment owned by G & V Trucking Company, Inc. The purchase price for the authority and equipment Northeastern Trucking Company proposes to purchase is $80,000. No lien on the certificate is contemplated.

4. The Sales Agreement attached to and made a part of the application jointly filed by G & V Trucking Company,

Inc., and Northeastern Trucking Company states that, upon consummation of the Sales Agreement, G & V Trucking Company, Inc., shall deliver to Northeastern Trucking Company title to the motor vehicle equipment involved in this sale and transfer free and clear of claims or liens against the same; and, further, that the operating authority involved in the sale and transfer will, on the date of consummation of the Sales Agreement, be free and clear of any claim against it by any person and that G & V Trucking Company, Inc., will have full, clear, valid, and unencumbered title to the authority.

CONCLUSIONS

1. Northeastern Trucking Company is fit, willing, ready, and able, financially and otherwise, to purchase and thereafter on a continuing basis to provide the services required by North Carolina Utilities Commission Certificate No. C-407.

2. The proposed transfer is reasonably justified by the public convenience and necessity as contemplated under G.S. 62-111(a).

Accordingly, IT IS ORDERED:

1. That the application in this docket be, and it hereby is, approved.

2. That Applicant, G & V Trucking Company, Inc., be, and hereby is, authorized to sell and convey to Northeastern Trucking Company, and that Applicant, Northeastern Trucking Company, be, and hereby is, authorized to purchase and thereafter operate under the authority contained in North Carolina Utilities Commission Motor Freight common Carrier Certificate No. C-407, with all rights, duties, and privileges thereunto pertaining; said authority being more fully described in Exhibit B hereto attached and made a part hereof.

3. That Applicant, G & V Trucking Company, Inc., shall forthwith forward to the Chief Clerk of this Commission its Certificate No. C-407 and upon receipt thereof the Chief Clerk of this Commission shall cancel the same and reissue the authority in the name of Northeastern Trucking Company, 2508 Starita Road, P.O. Box 1493, Charlotte, North Carolina, as a part of its existing certificate. Pending such changes in the records of this Commission, this order shall constitute all necessary authority for sale and transfer and for Northeastern Trucking Company's qualification and operation under said authority.

4. That, before entering upon operation of the authority herein authorized to be transferred but not more than sixty (60) days from the date this order issues, Northeastern Trucking Company shall post with this Commission its tariffs containing its rates, charges, and classifications, its

evidence of security for the protection of the traveling public, its list of equipment used or to be used in the operation, and shall otherwise comply with all laws and regulations governing the operation of common carriers in this state.

5. That upon compliance with all provisions of this order and entering upon operations under the permanent authority herein authorized to be transferred, the temporary authority heretofore granted Northeastern Trucking Company shall cease and determine without further notice.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-1196, SUB 2

Northeastern Trucking Company
2508 Starita Road
P.O. Box 1493
Charlotte, North Carolina 28201

Irregular Route Common Carrier

EXHIBIT B

Transportation of general commodities, except those requiring special equipment, over irregular routes between points within a radius of twenty-five (25) miles of Concord; from said area to points and places throughout the State; and from points and places throughout the State to points and places within a radius of twenty-five (25) miles of Concord.

NOTE: The authority transferred herein to the extent that it duplicates any authority heretofore granted to or now held by Northeastern Trucking Company shall not be construed as conferring more than one operating right.

DOCKET NO. T-1367, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application to transfer Certificate No. C-301)
from Petroleum Transit Company, Incorporated,) RECOMMENDED
to Schwerman Trucking Co., 611 South 28th) ORDER
Street, Milwaukee, Wisconsin)

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, on August 8, 1967, at 9:30 a.m.

BEFORE: E.A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicants:

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P.O. Box 2246, Raleigh, North Carolina

For the Protestant:

A.W. Flynn, Jr.
York, Boyd & Flynn
Attorneys at Law
P.O. Box 127, Greensboro, North Carolina
For: M & M Tank Lines, Inc.

HUGHES, EXAMINER: By a joint application filed with the Commission on May 31, 1967, Petroleum Transit Company, Incorporated, 1124 East Second Street, Lumberton, North Carolina, as Transferor, and Schwerman Trucking Co., 611 South 28th Street, Milwaukee, Wisconsin, as Transferee, seek approval of the transfer from said Transferor to said Transferee of all of the authority contained in Certificate No. C-301.

Notice of the application, with a description of the rights involved in the proposed transfer, along with the time and place of hearing was published in the June 15, 1967, issue of the Commission's Calendar of Hearings. Protest thereto was filed within apt time by M & M Tank Lines, Inc.

All parties were present at the hearing and represented by counsel.

Protestant contends that certain portions of the operating authority sought to be transferred have not been operated for some considerable period of time prior to the filing of the application and have, therefore, become dormant; that said rights have remained dormant for many months, and if the Commission should allow the transfer of such rights, it would result in a reactivation of said authority and would create a situation contrary to the provisions of the North Carolina Public Utilities Law; that the granting of said application in its entirety would create new authority to transport liquid and dry commodities, in bulk, in tank trucks and/or hoppers, which would deprive Protestant of business which it is authorized to handle; that the proposed service of the purchaser of such authority would be new competition to Protestant, and that the operating

authorities alleged to be dormant are not needed by the shipping public.

The evidence reveals that Transferor has been in operation since 1940, having later acquired its certificate under the Grandfather Provision of the Truck Act of 1947; that Transferor is presently actively engaged in operations under the authority proposed to be transferred, with the exception of liquefied petroleum gas, as authorized under Item 2 of its certificate, and certain phosphate products, as authorized under Item 10 of its certificate; that Transferor has continuously held itself out to haul liquefied petroleum gas and has actively solicited the TexasGulf Sulphur Company for hauling under its phosphate authority, and that Transferor is ready, willing, and able to handle any commodity which it is authorized to haul, if and when the business is offered to it.

The evidence further tends to show that Transferee, Schwerman Trucking Co., is one of the major bulk motor carriers of liquid and dry commodities in the country; that said Transferee now operates some 1,400 tractors, a large number of bulk trailers, dump trailers, flat beds, etc.; that said Transferee operates into forty-five (45) states, has the necessary equipment to provide adequate service under the authority which it seeks to acquire and is financially able to supplement such equipment, if and when needed. Other testimony favorable to Applicants was offered by a witness from American Oil Company, who testified that Transferor has engaged in intrastate hauling for American Oil Company for twenty (20) years; that a continuation of said service is badly needed; that his company is familiar with Transferee, has used its service and found it excellent; that if the transfer is approved, American Oil Company will use the service of Transferee and will also use the service of Protestant, M & M Tank Lines, Inc.

Evidence offered by Protestant indicates that since the first of the year, it has hauled twenty-seven (27) loads of phosphoric acid for TexasGulf Sulphur Company under its authority which was acquired at the same time Transferor was granted similar authority after a consolidated hearing of some several carriers, each of whose application was supported by TexasGulf Sulphur Company; that Protestant's gross revenue from the hauling of liquefied petroleum gas amounts to some $150,000 a year. Protestant offered, by reference, the records of the Commission for the purpose of clarifying its authority to engage in the transportation of liquefied petroleum gas.

Upon consideration of the evidence adduced, the testimony of record, and the records of the Commission, the Hearing Examiner makes the following

FINDINGS OF FACT

1. That Petroleum Transit Company, Incorporated, is a common carrier, subject to the jurisdiction of this Commission, authorized to transport petroleum products and liquefied petroleum gas, in bulk, in tank trucks, phosphate products, in bulk, in tank trucks and/or hopper vehicles, along with a number of other commodities from and to points and places within the territory described in Exhibit B hereto attached and has held itself out continuously since it acquired said authority to engage in the transportation authorized under its certificate.

2. That Transferor has agreed in writing to sell its certificate to Schwerman Trucking Co., Milwaukee, Wisconsin, and the latter, by the same written agreement, has agreed to buy the same for the consideration of $40,000.

3. That Transferor has certified to the Commission that it does not owe any debts or claims of which it has knowledge or notice, for taxes due the State, wages to employees, unremitted C.O.D. collections to shippers, loss of or damage to goods, overcharges or interline accounts, all as enumerated in G.S. 62-111(c).

4. That Transferee, Schwerman Trucking Co., was incorporated under the laws of the State of Wisconsin in 1947 and conducts extensive trucking operations in some forty-five (45) states and is one of the largest bulk haulers of diversified commodities in the United States. Transferee holds a contract carrier permit from this Commission and its qualifications, financial and otherwise, are a matter of record.

5. That the transfer of Certificate No. C-301 to Transferee will not create an additional carrier in competition with existing carriers and that the proposed sale and transfer is justified by the public convenience and necessity as contemplated under G.S. 62-111.

CONCLUSIONS

The Commission has generally and for the most part held to the view that the following five things are primarily essential to the approval of the sale and transfer of common carrier authority: (1) The seller must be the owner of the rights. (2) The operation of the rights must be active - or at least not abandoned. (3) There must be a contract or agreement between the transferor and the transferee for the sale. (4) The purchaser, or transferee, must be fit, able, and willing to render service under the authority on a continuing basis. (5) The seller must file a statement under oath with respect to debts and claims. The evidence offered and the application and records of the Commission of which judicial notice is taken justify findings that all five of these requirements have been met. No serious question has been raised as to the ownership of the

certificate, the contract of sale, or as to the ability, fitness or willingness of the would be purchaser.

The Hearing Examiner, therefore, concludes that the sale and transfer of the authority contained in Common Carrier Certificate No. C-301 from Petroleum Transit Company, Incorporated, to Schwerman Trucking Co., should be approved.

IT IS, THEREFORE, ORDERED That the sale and transfer of the authority as contained in Certificate No. C-301, more fully described in Exhibit B, hereto attached, from Petroleum Transit Company, Incorporated, 1124 East Second Street, Lumberton, North Carolina, to Schwerman Trucking Co., 611 South 28th Street, Milwaukee, Wisconsin, be, and the same is, hereby approved.

IT IS FURTHER ORDERED That Schwerman Trucking Co., comply with the Commission's rules and regulations relative to the filing of tariffs, and otherwise comply with the rules and regulations of the North Carolina Utilities Commission, and begin operations under the authority herein acquired within thirty (30) days from the date that this order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1367, SUB 1

Schwerman Trucking Co.
611 South 28th Street
Milwaukee, Wisconsin

Irregular Route Common Carrier Authority

EXHIBIT B

(1) Transportation of petroleum and petroleum products, in bulk in tank trucks, over irregular routes, from existing originating terminals at or near Wilmington, Morehead City, Beaufort, River Terminal, Thrift, Friendship, Salisbury, Apex, Fayetteville and Selma to points and places throughout the State, and of gasoline, kerosene, fuel oils and naphthas in bulk in tank trucks, over irregular routes, between all points and places within the territory it is now authorized to make deliveries from presently authorized originating terminals.

(2) Transportation of liquefied petroleum gas, in bulk, in tank trucks from all originating terminals of such liquefied petroleum gas to points within the territory described in above paragraph (1).

(3) Transportation of tobacco, unmanufactured, leaf or scrap, including stems, cooperage stock, sheets, baskets and hogsheads, over irregular routes, from Whiteville and Fairmont to Durham, and from Whiteville, Fairmont and Tabor City to Winston-Salem.

(4) Transportation of fertilizer and fertilizer materials, over irregular routes, from Wilmington to Laurinburg, Johns, Ashley Heights and Lumberton.

(5) Transportation of plywood, over irregular routes, from Maxton to Henderson.

(6) Transportation of petroleum oil in containers, over irregular routes, from Wilmington to Whiteville, Lumberton and Red Springs.

(7) Group 22, Liquid Asphalt, in bulk, in special equipment over irregular routes between all points and places in the State of North Carolina.

(8) Transportation of liquid fertilizer in bulk in tank trucks over irregular routes between all points and places in the State of North Carolina on and east of U.S. Highway 21.

LIMITATION: Truck Load Only.

(9) Transportation of dry cement, in bulk and in bags, from Wilmington, North Carolina, and points and places within a radius of fifteen (15) miles thereof, to points and places throughout the State.

(10) The transportation of phosphate products, including phosphorus chloride, phosphorus sulfide, red phosphorus, phosphorus oxide, phosphoric acids, calcium phosphates, ammonium phosphates, sulphuric acid,

normal super phosphate, enriched super phosphate, triple super phosphate, concentrated phosphoric acid, sodium phosphates and other phosphate derivative products or phosphate contained products, in bulk, in tank and/or hopper vehicles, from the TexasGulf Sulphur Company plant site or sites in Beaufort County, North Carolina and from points and places within a five (5) mile air-line radius thereof, to all points and places in North Carolina and refused or unclaimed products on return.

DOCKET NO. T-1367, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition for approval of transfer of the authority contained in Contract Carrier Permit No. P-29 from Petroleum Carrier Corporation, 369 Margaret Street, Jacksonville, Florida, to Schwerman Trucking Co., 611 South 28th Street, Milwaukee, Wisconsin	)	ORDER APPROVING TRANSFER

BY THE COMMISSION: By Petition filed with the Commission on October 2, 1967, Petroleum Carrier Corporation (Transferor), 369 Margaret Street, Jacksonville, Florida, and Schwerman Trucking Co. (Transferee), 611 South 28th Street, Milwaukee, Wisconsin, seek approval of the transfer of the authority contained in Contract Carrier Permit No. P-29 from said Transferor to said Transferee.

Notice of the application containing a description of the involved authority, together with the time and place of hearing was published in the Commission's Calendar of Hearings issued October 3, 1967. Said notice contained a provision that if no protests were filed by 5:00 p.m., Friday, November 3, 1967, the matter would be decided on the basis of the application, the documentary evidence attached thereto and the records of the Commission pertaining thereto, and no hearing would be held.

No protests were filed and the application is unopposed.

It appears from the representations of Applicants that Transferee is the owner of the issued and outstanding shares of common stock of Transferor, said acquisition of stock having been heretofore approved by the Commission; that since the acquisition by Transferee of Transferor's stock, it has become apparent to the management of both corporations that it would be to the best interest of both for Transferee to acquire by transfer the North Carolina

intrastate authority of Transferor; that Transferor and Transferee have entered into an agreement, a copy of which is attached to and made a part of the petition; that there are no debts or claims against Transferor of the nature specified in G.S. 62-111; that Transferee is fit and able to operate the authority proposed to be transferred and that the proposed transfer will not result in the duplication of any authority now held by Transferee.

Upon consideration thereof, the Commission is of the opinion and finds that said petition should be approved.

IT IS, THEREFORE, ORDERED That the transfer of Contract Carrier Permit No. P-29, together with the operating rights described in Exhibit A hereto attached and made a part hereof, from Petroleum Carrier Corporation, 369 Margaret Street, Jacksonville, Florida, to Schwerman Trucking Co., 611 South 28th Street, Milwaukee, Wisconsin, be, and the same is, hereby approved.

IT IS FURTHER ORDERED That Schwerman Trucking Co., file with the Commission true copies of contracts between Transferee and shippers, a minimum rate schedule and otherwise comply with the rules and regulations of the Commission and institute operations under the authority herein acquired within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1367, SUB 3

Schwerman Trucking Co.
611 South 28th Street
Milwaukee, Wisconsin

Contract Carrier Authority

EXHIBIT A

Transportation of petroleum and petroleum products in packages and containers, under individual bilateral contracts with particular shippers, over irregular routes, from Wilmington and points and places within 15 miles thereof to all points and places in North Carolina, with return movement of empty containers and rejected shipments.

DOCKET NO. T-1254, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for the approval of the transfer of Common Carrier Certificate No. R-6, together with the operating rights contained therein, from Seaboard Coast Line Railroad Company to The Seacoast Transportation Company, a wholly-owned Subsidiary of the Seaboard Coast Line Railroad Company	ORDER APPROVING TRANSFER

By application filed with the Commission on July 13, 1967, authority is sought to transfer Common Carrier Certificate No. R-6, together with the operating rights contained therein, from the Seaboard Coast Line Railroad Company (Transferor) to The Seacoast Transportation Company, a wholly-owned subsidiary of the Seaboard Coast Line Railroad Company (Transferee).

It appears from the application that on July 1, 1967, the Seaboard Air Line Railroad Company, a Virginia Corporation, and the Atlantic Coast Line Railroad Company, a Virginia Corporation, pursuant to authority granted by the Interstate Commerce Commission, merged, with the surviving corporation being known as Seaboard Coast Line Railroad Company a Virginia Corporation, and that by simultaneous order of the Commission in Docket No. T-1254, Sub 2, the name of Seaboard Air Line Railroad Company was changed to Seaboard Coast Line Railroad Company.

It further appears that Transferee is a common carrier by motor vehicle and prior to July 1, 1967, was a wholly-owned subsidiary of the Atlantic Coast Line Railroad Company and now by virtue of the said merger is a wholly-owned subsidiary of the Seaboard Coast Line Railroad Company; that Transferee is the holder of restricted Common Carrier Certificate No. R-69; that Transferee and Transferor are performing under their respective certificates essentially the same type of service, i.e., the transportation of mail, express and less carload freight in service that is auxiliary to and in substitution of the rail service of the Seaboard Coast Line Railroad Company; that the transfer of the authority now held by Transferor to the Transferee would enable the Seaboard Coast Line Railroad Company to dispense with its motor carrier organization, would allow the pooling of equipment being used to perform service thereunder with the equipment being used to perform the service of Transferee, would allow the more efficient utilization of drivers who are being maintained at separate points to perform the services under the two separate certificates and would generally serve to promote economies and efficiencies in the performance of service auxiliary to and in substitution of the rail service of the Seaboard Coast Line Railroad Company; and that the grant of this application, subject to present restrictions in Certificate No. R-6, will

not result in the establishment of any new competitive motor carrier service.

Upon consideration of the application, the documentary evidence attached thereto and the representations contained therein, the Commission is of the opinion and finds that said application should be approved.

IT IS, THEREFORE, ORDERED That the transfer of Common Carrier Certificate No. R-6, containing operating authority particularly described in Exhibit A hereto attached and made a part hereof, from Seaboard Coast Line Railroad Company, to The Seacoast Transportation Company be, and the same is, hereby approved.

IT IS FURTHER ORDERED That The Seacoast Transportation Company file with the Commission appropriate evidence of insurance, tariffs of rates and charges, lists of equipment, designation of process agent and otherwise comply with the rules and regulations of the Commission and institute operations under the authority herein acquired within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of July, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1254, SUB 3

The Seacoast Transportation Company
500 Water Street
Jacksonville, Florida

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of property by motor vehicle, such transportation being limited to service which is auxiliary to or in substitution of railroad service and shall be confined to the picking up of shipments at, or delivery to established railroad stations, offices of the Railway Express Company, or Post Offices, such shipments not to exceed 10,000 pounds of property commonly known as freight or express from or to any one point of origin or any one point of destination within a period of twenty-four consecutive hours; this condition not applicable to United States Mail.

(1) Between Charlotte and Wilmington, viz: From Charlotte over U.S. Highway 74 via Monroe, Wadesboro, Rockingham, Hamlet and Laurinburg to Lumberton, thence over N.C. Highway 211 via Bladenboro and Clarkton to Bolton, thence over U.S. Highway 74 to Wilmington; from Monroe to Waxhaw over N.C. Highway 75; and return over same route.

(2) Between the South Carolina State Line and the Virginia State Line, viz: From South Carolina State Line over N.C. Highway 77 via Hamlet to the intersection of said highway with U.S. Highway 1 near Marston, thence over U.S. Highway 1 via Aberdeen, Southern Pines and Tramway to Sanford, thence over U.S. Highway 15 and 501 to Pittsboro, thence over U.S. Highway 64 and N.C. Highway 55 to Apex, thence over U.S. Highway 1 via Raleigh, Wake Forest, Franklinton, Henderson and Norlina to the Virginia State Line; from Franklinton to Louisburg over N.C. Highway 56; and return over same route.

(3) Between Charlotte and Rutherfordton, viz: From Charlotte over N.C. Highway 27 via Mount Holly and Stanley to Lincolnton, thence over N.C. Highway 150 via Cherryville to Shelby, thence over U.S. Highway 74 via Mooresboro, Ellenboro, Forest City and Spindale to Rutherfordton; from the intersection of U.S. Highway 74 and N.C. Highway 120 west of Mooresboro over N.C. Highway 120 to Cliffside, thence over U.S. Highway 221-A to Caroleen, thence over unnumbered road to Ellenboro; and return over same route.

(4) From Henderson over U.S. Highway 158 to Oxford; thence over U.S. Highway 15 to Durham; and return over same route.

(5) Transportation of general commodities, including express, by motor vehicle, auxiliary to and supplemental to train operations and serving the stations of Seaboard Coast Line Railroad Company at rail

and express rates, between the North Carolina-South Carolina State Line and Laurinburg, North Carolina, over U.S. Highway 15.

(6) Transportation as a common carrier by motor vehicle over regular routes between Louisburg and Henderson over N.C. Highway No. 39 of commodities designated in the Commission's Rule 37, Group 1, General Commodities; Group 6, Agricultural Commodities; Group 10, Building materials; Group 12, Explosives and other dangerous Articles; Group 16, Furniture Factory Goods and Supplies; Group 17, Textile Mill Goods and Supplies; Group 19, Unmanufactured Tobacco and Accessories; and Group 21, Commodities handled as express and commodities handled in less-than-carload quantities by rail, as an alternate route for operating convenience only, and return, with no service at intermediate points.

(7) Transportation as a common carrier by motor vehicle over regular routes between Durham and Raleigh, N.C., over U.S. Highway 70, as an alternate route operation, serving no intermediate points, for applicant's operating convenience only, of commodities designated in the Commission's Rule 37 (effective 1 December 1961), as follows:

Group 1, General Commodities; Group 10, Building Materials; Group 16, Furniture Factory Goods and Supplies; Group 17, Textile Mill Goods and Supplies; Group 19, Unmanufactured Tobacco and Accessories; said authority applies only to commodities handled as freight or express in less-carload quantities by rail, as an alternate route for operating convenience only, with no service at intermediate points.

NOTE: This authority shall not extend to the service of any point not a station on Seaboard Coast Line Railroad Company's rail line.

(8) Transportation of the same kinds, types, quantities and qualities, and

under the same conditions and limitations, of property by motor vehicle between Garysburg, North Carolina, and Rich Square, North Carolina, over U.S. Highway 158 and N.C. Highway 305 by way of Jackson as an alternate route to presently authorized authority between these points, serving no intermediate points and using said route only for convenience and economy in operation.

The authority granted herein to the extent that it duplicates any authority heretofore granted to or now held by carrier shall not be construed as conferring more than one operating right.

DOCKET NO. T-1129, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application for approval of transfer of	)	
Certificate No. C-625 from Wade G. Wood, d/b/a	)	ORDER
Carter's Transfer, China Grove, N.C., to S.B.	)	APPROVING
Wooten, d/b/a Wooten Transfer & Storage, 2009	)	TRANSFER
Walkup Avenue, Monroe, N.C.	)	

By application filed with the Commission on December 22, 1966, authority is sought to transfer Common Carrier Certificate No. C-625 together with the operating rights contained therein from Wade G. Wood, d/b/a Carter's Transfer, as Transferor, to S.B. Wooten, d/b/a Wooten Transfer & Storage, as Transferee. The matter was set to be heard in the offices of the Commission on February 9, 1967, and notice to the public duly given in the January 4, 1967, issue of the Commission's Calendar of Hearings. The notice in the Calendar of Hearings set forth its purpose and time and place of the hearing with the provision that if no protests were filed by 5:00 p.m., Friday, February 3, 1967, the case would be decided on the basis of the application, the documentary evidence attached thereto and the records of the Commission pertaining thereto and no hearing would be held. No protests were filed.

It appears from the application and from the records of the Commission that Transferee, S.B. Wooten, has been engaged in the transportation of household goods by authority of this Commission from all points within Union County to all points within the State of North Carolina, for some seven (7) years. It further appears from the bill of sale attached to the application that the total consideration involved in the proposed transaction is $2,000.00; that there are no existing debts or claims

against transferor of the nature specified in G.S. 62-111 and that the transferee is fully qualified, financially and otherwise, to acquire the involved authority and to furnish adequate service thereunder on a continuing basis.

Upon consideration thereof, the Commission is of the opinion and finds that said application should be approved.

IT IS, THEREFORE, ORDERED That the transfer of Common Carrier Certificate No. C-625 together with the operating rights described in Exhibit B hereto attached from Wade G. Wood, d/b/a Carter's Transfer, to S.B. Wooten, d/b/a Wooten Transfer & Storage be, and the same is, hereby approved.

IT IT FURTHER ORDERED That Certificate No. C-801 heretofore issued by the Commission to transferee authorizing the transportation of household goods from all points within Union County to all points within the State of North Carolina, be, and the same is, hereby cancelled.

IT IS FURTHER ORDERED That S.B. Wooten, d/b/a Wooten Transfer & Storage file with the Commission appropriate evidence of insurance, tariffs of rates and charges, lists of equipment, designation of process agent and otherwise comply with the rules and regulations of the Commission and institute operations under the authority herein acquired within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1129, SUB 4

S.B. Wooten, d/b/a
Wooten Transfer & Storage
2009 Walkup Avenue
Monroe, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments; and articles, including objects of art, displays,

and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods, between all points and places throughout the State of North Carolina. This authority does not include materials used in the manufacture of furniture and the manufactured products hauled to or from such manufacturing plants.

DOCKET NO. T-1052, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Failure of William B. Buie, Dillon, S.C.,) ORDER REVERTING
to keep on File Classification Ratings) CERTIFICATE TO
) LIENHOLDER

This cause is before the Commission on an Order issued March 15, 1966, to suspend the certificate and to show cause why the authority under Certificate No. C-757 should not be cancelled for failure to keep on file classification ratings for determination of rates and charges of the respondent in North Carolina.

The proceeding was postponed and reset for June 24, 1966, at which time the hearing was convened in Raleigh, N.C. The respondent, William B. Buie, failed to appear at the time appointed for the hearing and the return of service of the Show Cause Order was received in evidence. At the call of the case, Allen H. Gwyn, Winston-Salem, N.C., appeared on behalf of himself and his wife, Mrs. Susanna R. Gwyn, and was allowed to intervene for the purpose of protecting the interest of said Mrs. Gwyn in said franchise certificate by virtue of a conditional sales contract and chattel mortgage lien previously filed with the Commission. At the request of the Intervenor, Mrs. Susanna R. Gwyn, the proceeding was recessed to allow time for the chattel mortgage or conditional sales contract to be foreclosed according to law.

On December 28, 1966, the Intervenor, Mrs. Susanna R. Gwyn, filed with the Commission a Judgment by default final entered in Forsyth County Superior Court on December 12, 1966, in an action entitled Mrs. Susanna R. Gwyn v. William B. Buie, certified by the Clerk of Superior Court, adjudging Mrs. Susanna R. Gwyn to be the owner of said Certificate No. C-757 by virtue of the foreclosure of said conditional sales lien on said certificate.

Based upon said certified copy of the Judgment of the Superior Court and upon the records of the Commission recording said prior lien and upon the record in this

proceeding showing no response by the respondent, William B. Buie, the Commission makes the following

FINDINGS OF FACT

1. Respondent, William B. Buie, Dillon, S.C., has failed to keep on file classification ratings as required by the Rules and Regulations of this Commission.

2. Respondent, William B. Buie, has failed to appear before the Commission and show cause after proper notice why said certificate in his name should not be cancelled for failure to keep on file classification ratings.

3. The intervenor, Mrs. Susanna R. Gwyn, has been declared by a Judgment of the Superior Court of Forsyth County to be the owner of said Certificate No. C-757 heretofore issued to the respondent, William B. Buie, and a certified copy of said Judgment has been duly filed in this proceeding by the intervenor, Mrs. Susanna R. Gwyn.

CONCLUSIONS OF LAW

This Commission has previously recorded and recognized the interest of the intervenor, Mrs. Susanna R. Gwyn, in said Certificate No. C-757 by virtue of the filing with this Commission on June 30, 1966, of the Bill of Sale of the Receiver in Bankruptcy dated October 7, 1965, making the sale of said conditional sales contract on said certificate to Mrs. Susanna R. Gwyn at public sale.

The Commission is bound by the duly certified copy of the Judgment of the Superior Court of Forsyth County adjudging Mrs. Susanna R. Gwyn to be the owner of Certificate No. C-757 by virtue of foreclosure of said conditional sales contract which had been duly filed and approved by this Commission.

IT IS, THEREFORE, ORDERED:

1. That the interest of the respondent, William B. Buie, in Certificate No. C-757 is hereby cancelled for failure to keep on file with this Commission classification ratings as required by the Rules of the Commission.

The intervenor, Mrs. Susanna R. Gwyn, is hereby declared to be the owner of said Certificate No. C-757 by virtue of the Judgment of the Superior Court of Forsyth County duly filed with this Commission in this proceeding, as set forth in Exhibit B attached.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. T-1052, SUB 3	Mrs. Susanna R. Gwyn 2567 Country Club Road Winston-Salem, N.C. 27104
	Irregular Route Common Carrier Authority
EXHIBIT B	Transportation of Group 5, Solid Refrigerated Products, including property of a perishable nature such as fresh fish, meats, meat products, fruits, vegetables, dairy products, and other commodities which require refrigeration while in transit and the use of vehicles with temperature controls, between points and places throughout the State of North Carolina.

DOCKET NO. T-1307

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for Approval of Sale and Transfer of the Operating Authority under Certificate No. C-85 from C.L. Helderman, d/b/a Helderman Trucking Company, Gold Hill, North Carolina, to Glosson Motor Lines, Inc., Hargrave Road, Lexington, North Carolina	) ORDER RESCINDING) TRANSFER AND) REVESTING) CERTIFICATE IN) C.L. HELDERMAN))

BY THE COMMISSION: This proceeding comes before the Commission for reconsideration pursuant to a consent Judgment entered in the Superior Court of Wake County on April 25, 1967, by Judge E. Maurice Braswell dismissing the appeal from the original Order of the Commission and remanding the cause to the Commission for appropriate action in light of the circumstances rendering the appeal moot.

The Judgment of the Superior Court finds with the consent of the attorneys for the applicants and the protestants that the appeal from the Order of the Commission approving the transfer applied for is now moot in that the sale and transfer of the rights under Certificate No. C-85 has been terminated by the refusal of the purchaser to purchase same.

Following remand of the proceeding to the Commission pursuant to the above-described Judgment, the Commission received on April 28, 1967, a Motion filed by the original transferor, C.L. Helderman, reciting the conditions of said above consent Judgment finding that the sale and appeal is now moot and that said transfer has been cancelled and terminated, and said C.L. Helderman prays the Commission to reexamine the Order approving the sale and to rescind the Order and revest the operating rights under Certificate No.

C-85 in said C.L. Helderman, d/b/a Helderman Trucking Company.

This proceeding arose originally by the filing of a joint application by C.L. Helderman and Glosson Motor Lines, Inc., on March 16, 1964, to transfer the operating authority under Certificate No. C-85 from C.L. Helderman, d/b/a Helderman Trucking Company to Glosson Motor Lines, Inc. Protests were filed to the application and public hearings were held by the Commission on September 17, 1964, October 7, 1964, and February 18, 1965. The Order of the Commission was entered on March 17, 1965, approving the sale and transfer applied for. The protestants appealed to the Superior Court of Wake County and the proceeding was formally certified to the Superior Court on August 24, 1965. The Commission has received subsequent to that time copies of Judgments entered in the Superior Court extending the time for consummation of the sale. The final Judgment entered in the Superior Court dismissing the appeal and finding the sale to be moot and the proposed transfer terminated by refusal of the purchaser to purchase the same shows that it is consented to by attorneys for the joint applicants in this proceeding and by the protestants.

The Motion of the applicant, C.L. Helderman, filed herein on April 28, 1967, shows that he takes no exception before this Commission to the refusal of the buyer to complete the sale, and he prays that the Order of transfer be cancelled and that the certificate be revested in his name as C.L. Helderman, d/b/a Helderman Trucking Company.

It appearing to the Commission that the principal issue on the Motion to rescind the Order approving the transfer has been determined in the Superior Court of Wake County in the Judgment finding that the transfer of the rights has been terminated by refusal of the purchaser to purchase same; and the proposed transferor, C.L. Helderman, having moved that the Order approving the sale be rescinded and that the rights be revested in said transferor's name, and good cause appearing under said Judgment and motion for granting of said motion to rescind the Order approving the sale,

IT IS NOW, THEREFORE, ORDERED:

1. That the Order of the Utilities Commission entered in this proceeding on March 17, 1965, approving the sale and transfer of the operating authority under Certificate No. C-85 from C.L. Helderman, d/b/a Helderman Trucking Company, Gold Hill, N.C., to Glosson Motor Lines, Inc., Hargrave Road, Lexington, N.C., be and is hereby rescinded and cancelled.

2. The operating authority under Certificate No. C-85, more fully described in Exhibit B hereto attached, is hereby

revested and reissued in the name of C.L. Helderman, d/b/a Helderman Trucking Company, Gold Hill, N.C.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1307

C.L. Helderman, d/b/a
Helderman Trucking Company
Gold Hill, North Carolina

Irregular Route Common Carrier

EXHIBIT B

(1) Transportation of general commodities, except those requiring special equipment and except unmanufactured leaf tobacco and related commodities described in N.C.U.C. Docket No. 2417, over irregular routes, between all points and places on, east and south of U.S. Highway 29 from the Virginia-North Carolina State Line to Reidsville, thence U.S. Highway 158 to Mocksville, thence U.S. Highway 64 to Statesville, thence U.S. Highway 21 to intersection with N.C. 115, thence N.C. 115 to intersection with U.S. 21 and on U.S. 21 to Charlotte, thence U.S. Highway 29 to the North Carolina-South Carolina State Line.

(2) Transportation of personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals, or other establishments when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals, or other establishments; and articles including objects of art, displays, and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household

goods, between all points and places throughout the State of North Carolina. This authority does not include materials used in the manufacture of furniture and the manufactured products hauled to or from such manufacturing plants.

(3) Transportation, over irregular routes, of commodities of iron and/or steel, including but not limited to prefabricated bars to dimensions, steel pipe, steel windows, concrete reinforcing steel bars, concrete reinforcing steel wire mesh, steel culvert pipe (corrugated), cast iron soil pipe, steel trusses, girders, channels, beams, bases and structural forms, equipment and building materials used by bridge, culvert and building contractors, steel kiln cars, rails, accessories and equipment, which may be transported on ordinary vehicular equipment for the over-the-road portion of the transportation and does not require special equipment, specialized handling or rigging, to and from all points in that part of North Carolina on, west and north of U.S. Highway 29 from the Virginia-North Carolina State Line to Reidsville, thence U.S. Highway 158 to Mocksville, thence U.S. Highway 64 to Statesville, thence U.S. Highway 21 to Intersection with N.C. 115, thence N.C. 115 to intersection with U.S. 21 and on U.S. 21 to Charlotte, and thence U.S. Highway 29 to the North Carolina-South Carolina State Line.

LIMITATION: Truckload lots only.

DOCKET NO. T-480, SUB 24

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Thurston Motor Lines, Inc., 601 Johnson Road, Charlotte, North Carolina - Emergency Authority to Operate Between Plymouth and Columbia	) ORDER) CANCELLING) EMERGENCY) AUTHORITY

Upon consideration of the record in the above entitled matter and of request of carrier that emergency authority heretofore granted in this docket be cancelled, and in

further consideration of an interchange of freight agreement between Thurston Motor Lines, Inc., and Carolina-Norfolk Truck Line, Inc., which has been approved by this Commission in another proceeding; and good cause appearing therefor,

IT IS ORDERED That emergency authority heretofore granted Thurston Motor Lines, Inc., to engage in the transportation of general commodities as a regular route common carrier between Plymouth and Columbia be, and the same is, hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-480, SUB 25

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Interchange of North Carolina Intrastate Traffic Between Carolina-Norfolk Truck Line, Inc., and Thurston Motor Lines, Inc.	) ORDER) AUTHORIZING) INTERCHANGE) OF TRAFFIC

BY THE COMMISSION: By letter (treated as a petition) filed with this Commission August 7, 1967, Thurston Motor Lines, Inc. (Thurston or Petitioner), seeks approval of an interchange agreement that it proposes to enter into with Carolina-Norfolk Truck Lines, Inc. (Carolina-Norfolk).

Carolina-Norfolk is a common carrier of property by motor vehicle engaged in the transportation of general commodities, in intrastate commerce, except those requiring special equipment, over irregular routes, between all points and places on, east and south of U.S. Highway 29 from the North Carolina-Virginia State line to the North Carolina-South Carolina State line, pursuant to the authority contained in its common carrier Certificate No. C-577, heretofore issued by this Commission.

Thurston is a common carrier holding extensive authority to engage in the transportation of general commodities (with certain exceptions) in intrastate commerce, between various points and places within the State via regular routes, pursuant to its common carrier Certificate No. C-26 heretofore issued by this Commission. This carrier also holds emergency regular route common carrier authority granted by the Commission in its order of September 9, 1966, in Docket No. T-480, Sub 24, permitting the transportation in intrastate commerce of general commodities, except those requiring special equipment for hauling, loading or

unloading, or any special or unusual service in connection therewith from Plymouth over U.S. Highway 64 to Columbia and return serving all intermediate points.

The last mentioned authority hereinbefore outlined was granted to Thurston in response to a petition filed by that carrier in which it sought authority to offer regular route common carrier service over U.S. Highway 64 between Plymouth and Columbia, North Carolina, on a temporary trial basis. Petitioner now advises that it has attempted to serve Columbia and intermediate points under the authority, but that the volume of traffic is insufficient to sustain the operation. A study made by Thurston for the month of April, 1967, discloses that it transported thirteen (13) intrastate shipments into Columbia and intermediate points for a total weight of 3,302 pounds and that its proportion of the through revenue was only $56.55. During the same period the weight of interstate traffic transported to the same area totaled 4,870 pounds. There was no outbound movement of either interstate or intrastate traffic.

Petitioner states, that in an effort to serve shippers and receivers in the involved area it has contacted Carolina-Norfolk and that that carrier is agreeable to entering into an interline agreement with them for the interchanging of involved North Carolina intrastate traffic. The carriers believe that such an arrangement will enable Carolina-Norfolk to load its equipment and at the same time for it to render better and more efficient service to shippers and receivers located in the Columbia area.

In view of the foregoing, Petitioner seeks approval of the proposed Interchange Agreement with Carolina-Norfolk, an executed copy of which is attached to the petition.

FINDINGS OF FACT

1. That Thurston and Carolina-Norfolk, parties to the proposed Interchange Agreement, are common carriers by motor vehicle in North Carolina intrastate commerce, are properly before the Commission, which has jurisdiction over the subject matter of the proceeding.

2. That the light density of involved traffic makes service of the involved area through an arrangement such as the proposed Interchange Agreement more practical than the manner in which service is now provided.

3. That the proposed agreement provides for a reasonable and equitable basis of divisions.

4. That the filing of the proposed agreement is in conformity with the provisions of Rule R2-35(b) of the Commission's Rules and Regulations.

CONCLUSIONS

The proposed Interchange Agreement between Thurston and Carolina-Norfolk is in the public interest and petition herein seeking approval thereof should be acted upon favorably.

IT IS ACCORDINGLY ORDERED:

1. That Thurston Motor Lines, Inc., and Carolina-Norfolk Truck Line, Inc., be, and same are hereby, authorized to interchange intrastate traffic moving between points and places on U.S. Highway 64 from Plymouth to Columbia, and intermediate points, on the one hand, and points and places served by Thurston Motor Lines under its regular route authority or by Thurston and its connections, on the other hand.

2. That Thurston and Carolina-Norfolk publish and file with this Commission appropriate tariff schedules setting forth in sufficient detail the provisions of the Interchange Agreement herein authorized.

3. That the required tariff publication may be made on one (1) day's notice.

4. That this authorization shall not be considered in derogation of any carrier's rights to obtain authority to serve the area involved on the basis of public convenience and necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-480, SUB 25

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Interchange of North Carolina Intra-	) SUPPLEMENTAL ORDER
state Traffic Between Carolina-Norfolk	) AUTHORIZING
Truck Line, Inc., and Thurston Motor	) INTERCHANGE OF
Lines, Inc.	) TRAFFIC

BY THE COMMISSION: This Commission by its Order in this docket of August 10, 1967, authorized the interchange between Thurston Motor Lines, Inc. (Thurston), and Carolina-Norfolk Truck Line, Inc. (Carolina-Norfolk), petitioners herein, of traffic moving between points and places on U.S. Highway 64 from Plymouth to Columbia, and intermediate points served by Carolina-Norfolk, on the one

hand, and points and places served by Thurston under its regular route authority or by Thurston and its connections, on the other hand.

By letters from Carolina-Norfolk and Thurston, received August 30 and 31, 1967, (treated as a petition) said carriers seek authority to enlarge the agreement approved by the Order of August 10, 1967, as hereinabove described, to authorize the interchange between petitioners, of traffic originating or terminating at all points and places served by Carolina-Norfolk under its irregular route authority, except points on the routes of regular route carriers, on the one hand, and on the other, points and places served by Thurston or Thurston and its connections.

Petitioners point out, among other things, that there is a continuing problem of providing adequate service to and from certain points in the service area of Carolina-Norfolk and maintain that amendment of the interchange agreement in the manner hereinbefore outlined will alleviate some of those problems.

Upon consideration of the petition and the record in this matter as a whole and it being the opinion of the Commission that good and sufficient cause has been shown,

IT IS ORDERED That the petition of Thurston Motor Lines, Inc., and Carolina-Norfolk Truck Line, Inc., for authority to amend the interchange agreement hereinbefore enumerated and described to include all points and places served by Carolina-Norfolk Truck Line, Inc., under its irregular route authority (except points and places on the routes of regular route carriers), on the one hand, and points and places served by Thurston Motor Lines, Inc., under its regular route authority, or Thurston, and its connections, on the other hand, be, and same is hereby, approved.

IT IS FURTHER ORDERED That petitioners publish and file with this Commission appropriate tariff schedules setting forth the provisions of the interchange agreement in sufficient detail for it to be readily understood by tariff users.

IT IS FURTHER ORDERED That the required publication may be made on ten (10) days' notice.

And IT IS ORDERED That this authorization shall not be in derogation of any carrier's rights to obtain authority to serve the area involved on the basis of public convenience or necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. R-1, SUB 204

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of the Atlantic Coast) ORDER
Line Railroad Company to discontinue) DENYING
the operation of its Passenger Trains) APPLICATION
Nos. 42 and 49 between Wilmington and)
Rocky Mount, North Carolina)

HEARD IN: Conference Room of the Cooperative Savings and Loan Association Building and Meeting Room, Holiday Inn, Wilmington, North Carolina, on April 5, 6, and 7, 1967

BEFORE: Chairman Harry T Westcott (presiding), and Commissioners Sam O. Worthington, Clarence H. Noah, Thomas R. Eller, Jr., and John W. McDevitt

APPEARANCES:

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For the Commission Staff:

Edward B. Hipp
General Counsel

For the Using and Consuming Public:

George A. Goodwyn
Assistant Attorney General

WORTHINGTON, COMMISSIONER: This matter arises upon the application of the Atlantic Coast Line Railroad Company (applicant) filed with the North Carolina Utilities Commission (Commission) on January 23, 1967, requesting authority to discontinue the operation of its Passenger Trains Nos. 42 and 49 between Wilmington and Rocky Mount, North Carolina. Prior to the filing, the applicant posted notice at each of the stations along its rail line between Wilmington and Rocky Mount to the effect that not less than 10 days nor more than 20 days from the date of the notice (January 31, 1967) it would make application to the Commission for authority to discontinue the operation of the trains and stated in such notice that anyone desiring to protest the proposed discontinuance should advise the Chairman of the North Carolina Utilities Commission, P.O. Box 991, Raleigh, North Carolina.

The Commission received numerous communications in the way of letters and petitions opposing the granting of the application. In due time protests were filed by the Greater Wilmington Chamber of Commerce, the City of Wilmington and New Hanover County.

The Attorney General of North Carolina intervened in behalf of the using and consuming public, and the Staff of the Commission represented by the Commission Attorney also participated in the proceeding.

Upon receipt of protests and in order to give all interested parties an opportunity to be heard, the Commission scheduled the matter for public hearing to be held in the City of Wilmington for the convenience of those who might participate. The hearing was held as scheduled beginning April 5, 1967, and was concluded April 7, 1967.

Applicant, protestants, Commission's Staff and the Attorney General, through an Assistant Attorney General, were present through counsel and presented evidence through the testimony of witnesses and exhibits, with the exception of the office of the Attorney General which did not offer any evidence, upon which evidence the Commission makes the following

FINDINGS OF FACT

1. Applicant is a common carrier of passengers, freight and express by railroad operating within and between the States of Virginia, North Carolina, South Carolina, Georgia, Florida and Alabama and as a part of its operation provides passenger service between Wilmington and Rocky Mount, both in North Carolina, and is subject to the jurisdiction of the Commission for service, rates, facilities and the discontinuance of service.

2. In providing passenger service between Wilmington and Rocky Mount, the applicant operates one round trip daily using only one train, No. 49 for the south trip, which is scheduled to leave Rocky Mount at 2:45 a.m. and arrive in Wilmington at 7:30 a.m., and for the return trip is designated Train No. 42, leaving Wilmington at 7:15 p.m. and arriving in Rocky Mount at 11:25 p.m. Each train makes regular stops at the intervening stations of Wilson, Black Creek, Fremont, Pikeville, Goldsboro, Mount Olive, Faison, Warsaw, Magnolia, Rose Hill, Wallace, Willard, Burgaw, Rocky Point and Castle Hayne. The stations of Elm City, Calypso, Teachey and Watha are flag stops.

3. Applicant's Train No. 42 from Wilmington to Rocky Mount is scheduled to arrive in Rocky Mount one hour prior to applicant's scheduled departures north, and passengers using this service have to wait in Rocky Mount for one hour although the train remains in Rocky Mount until 2:45 a.m. for its return to Wilmington.

4. Both trains handle express and handled United States Mail under contract with the United States Postal Service until the latter part of 1966 when the postal authorites found the schedules unacceptable for their needs and discontinued the mail service.

5. The only rail passenger service afforded the public east of Rocky Mount, Wilson and Fayetteville is that offered by applicant over its line between Rocky Mount and Wilmington by Trains Nos. 42 and 49.

6. The City of Wilmington is the county seat of New Hanover County, is located in the extreme southeastern section of North Carolina, was formerly the headquarters of applicant, is a prosperous, expanding, growing and developing city. Here the State of North Carolina has invested millions of dollars in port facilities, and in recent years much industrial development and growth has been experienced in the city, the county, and the surrounding

area. Applicant now enjoys a large and profitable freight business to and from Wilmington and to and from the numerous stations along its rail line between Wilmington and Rocky Mount.

7. Applicant's passenger service between Wilmington and Rocky Mount is a direct feeder service to its long haul trains, both north and south, out of Rocky Mount and is an essential and necessary service to the traveling public between Wilmington and Rocky Mount and intervening points and between these points and points north and south of Rocky Mount.

8. Since the removal of its headquarters applicant has not offered to the traveling public over this segment of its service line the type and kind of facilities and accommodations conducive to the use of its services by the public. The coaches, which it has used in the rendering of service, are antiquated, old, uncomfortable and not calculated to lend encouragement to use by the public.

9. Applicant has made very little, if any, effort to sell its passenger service to the public, and for the most part, according to its own evidence, has deliberately or willingly allowed its facilities and its services to deteriorate to the point to discourage public use.

10. The Pullman service offered by applicant on these two trains has been somewhat superior to its other service and has been about the only inducement to the public to use the service. Even this service deteriorated to considerable extent when it became necessary to change in Washington on trips to New York and other points north.

11. Applicant is experiencing a deficit in revenue in the operation of the two passenger trains under its present method of operation with the use of its present facilities and by the maintenance of its present schedules.

12. Applicant enjoys extensive business in the handling of freight over its rail line between Wilmington and Rocky Mount and for the year 1966 enjoyed the most profitable business year of its existence.

13. Its application to merge with Seaboard Air Line Railroad Company has finally been approved, which will enable it to have larger earnings due to calculated savings by the merger.

14. Use of rail passenger service between Wilmington and Rocky Mount increased in 1966 over 1965 or 1964 despite all handicaps in that 13,000 passengers used the service in 1966 against 11,613 in 1965 and 11,006 in 1964. The number of passengers using the service increased in 1965 over 1964 also.

15. Public convenience and necessity requires that rail passenger service be provided, continued and maintained by applicant between Wilmington and Rocky Mount.

CONCLUSIONS

Applicant has been in existence and has operated passenger train service into and out of Wilmington, either between Weldon and Wilmington or Rocky Mount and Wilmington, since 1893. Its headquarters were located in Wilmington until 1959 when it saw fit to move them to Jacksonville, Florida. For many years prior to the removal of its headquarters from Wilmington it conducted extensive and profitable passenger service between Wilmington and Rocky Mount through the use of adequate, well scheduled and comfortable facilities. Gradually but consistently applicant has deteriorated its passenger train service over its line between Rocky Mount and Wilmington to one daily round trip schedule, leaving Wilmington at 7:15 in the afternoon and arriving at Rocky Mount at 11:25 p.m., leaving Rocky Mount on the return trip at 2:45 a.m. and arriving in Wilmington at 7:15 a.m. At the present time and for some years it has used in this operation one train - 49 which consists of a 2,000-horsepower diesel locomotive of old vintage, an express car built in 1916 or 1917, a mail-apartment car for baggage only built in 1916, a coach car built in 1923 and remodeled in 1950, and a sleeper or Pullman car built in 1950 - the northbound Train 42 has substantially the same consist. No food is served on either train, and each train has a five man crew. Although Train 42 makes up in Wilmington and is there on the yard, passengers are not usually allowed on the train until just a few minutes before time for departure (7:15 p.m.), and the air conditioning in summer is not operative until the train has begun its trip and in the winter time the heat is not turned on until after the train has begun its trip, resulting in uncomfortably hot conditions upon boarding the train in the summer and unpleasant and unsatisfactory cold conditions on boarding the train in the winter time. As of June, 1964, the through sleeper car from Wilmington to New York City was removed requiring passengers to transfer from the train in Washington, D.C., for points north. Passengers from the north destined to Wilmington come into Rocky Mount at 12:35 a.m. on applicant's train going south and are required to wait until 2:45 a.m. for Train 42 to Wilmington though it is there available in the yard. Passengers are not permitted to board the sleeper on this train until just before departure time. No explanation was offered by applicant as to why this unreasonable layover in Rocky Mount is required or why passengers leaving applicant's southbound train could not immediately board the train for Wilmington. The same coach car, built in 1923, is used on both trains and is known and referred to by the applicant's employees as the "bucking car" because of its dilapidated condition, its unusual amount of vibration and uncomfortable riding qualities.

The City of Wilmington, located in the extreme southeastern part of the State on the Cape Fear and Northeast Rivers, is the home of North Carolina State Ports Authority. The City itself has its own Port Authority. The State of North Carolina has invested some $16,000,000 in capital for the construction of port facilities and large quantities of many different commodities move into and out of the Port there. The nine-county area in this section of the State served by applicant's train service has a population of almost one-half million people. Within the past three or four years much industrial development has taken place in this area. In 1966 alone DuPont, Hercules Corporation, General Electric and Corning Glass all located in the immediate area of Wilmington with the potential employment of 1,490 people. Applicant is enjoying tremendous freight business in the Wilmington area. It is also enjoying a profitable freight business. Its overall earnings for the year of 1966 were greater than any year within the last ten, if not the best in its history. True, applicant contends that it experienced a $16,000,000 deficit in its overall passenger train operations throughout its system in 1966. Whatever its deficit in the operation of these two passenger trains here involved, which furnish the only rail passenger services east of Rocky Mount, Wilmington and Fayetteville, an area encompassing almost one-third of the State, it is totally inconsequential when related to what it says its overall passenger deficit was. It is remarkable within itself that applicant, at great expense, "weighed anchor" in 1959 and moved its headquarters, item for item and piece by piece, to Jacksonville, Florida, and now at the expense of further detriment and disaster to this section of the State it seeks to discontinue its passenger train service simply because it experiences a deficit which, when related to its entire passenger deficit or to its company-wide earnings, is totally inconsequential.

The fact remains that though for the years of 1964 and 1965 there was a decline in the use of applicant's passenger train service on this line, there was a sharp increase in 1966 indicating clearly a greater use of applicant's passenger service by the public commensurate with the growth and expansion of the area. It is quite apparent that had applicant over the past few years made any reasonable effort consistent with good judgment, good management and the needs of the public afforded the public a more adequate, comfortable and convenient service in its passenger operation between Rocky Mount and Wilmington that it might well have changed its deficit into a surplus or profit, that it might well have retained the mail service by the alteration of its schedules to meet the postal authorities' needs. It is equally apparent that applicant has failed to make any effort to improve its facilities or its service with a view to the ultimate discontinuance of this particular passenger service as sought in this instance.

Applicant is a public utility. It enjoys monopolistic privileges. It ought not to desire and it should not be

permitted in its role as a public utility to enjoy the fruits and profits from one segment of its operation to its own benefit and at the same time discontinue another segment of its service to the detriment of the general public. It is right and just that it take the good with the bad until such time as it is able to show at least that the continuance of the bad will destroy the good. In this case it has not done so. While it has shown a deficit in revenue for the passenger operation, it has at the same time shown an increase in the use of the passenger service during the year 1966 as compared with previous years and an unprecedented earnings experience.

Applicant offers no explanation and advances no reason for its failure to furnish schedules for these two trains adequate to the public need and which will make them attractive to public use. Neither does the applicant offer any plausible explanation of why passengers should be required to wait in the station at Rocky Mount in the dead hours of the night for as much as two hours when the train which is to bring them to Wilmington is there available in the yard nor does it offer any plausible explanation as to why the train originating in Wilmington does not have the cooling system in operation in the summer or the heating system operating in the winter as to be comfortable for passengers when they board it. Rather, it seems to leave these matters for the Commission to ponder as to whether there has been effort to discourage passenger use of these trains looking to the ultimate removal of them.

We do not overlook the fact that the failure of a certain operation to produce revenue adequate to meet operating expenses and provide some profit is to be considered when it comes to a question of continuance or discontinuance of the particular service. However, we here reiterate that the controlling factor is the public need for the service. "Every public utility shall furnish adequate, efficient and reasonable service." G.S. 62-131(b) The record indicates that much greater use of applicant's passenger service would be made by the public if it were a service that was reasonably convenient, adequate and comfortable. The record indicates also that business interests which have located in the Wilmington area will find it necessary to remove their offices from Wilmington, as the applicant has already done, if passenger train service is discontinued. It is apparent from the record that the services of the applicant in rendering of passenger train service between Rocky Mount and Wilmington has not been adequate, efficient or reasonable.

There are other sources of public passenger transportation into and from the Wilmington area. Applicant suggests that Piedmont Airlines serves Wilmington, that two or more public utility bus companies serve Wilmington. It suggests that people who prefer to ride the train take a bus from Wilmington to Fayetteville, about 90 miles, and there board one of applicant's trains at that point. It is apparent from applicant's suggestion in this instance that it

exercises very little regard for public convenience and adds to the feeling that it desires to continue to reap the benefits of the segment of its operation that it finds profitable and discontinue that which it is not finding profitable regardless of the public need.

We conclude that the public need requires that the applicant continue to render rail passenger service over its line between Wilmington and Rocky Mount. We conclude also that the applicant should work out more attractive schedules for this service, furnish better facilities in its operation and provide for the public need in a more adequate, efficient and reasonable manner. We conclude further that the applicant in the conduct of its rail passenger operation between Wilmington and Rocky Mount has not fulfilled its duty and obligation as a public utility, and that the reason for its experiencing a deficit in this operation has been brought about mainly by its own failure to provide the kind and type of service commensurate with public need and demand.

IT IS, THEREFORE, ORDERED that the application of the Atlantic Coast Line Railroad Company to be permitted to discontinue passenger train service over its line between Wilmington and Rocky Mount be and the same is hereby denied.

IT IS FURTHER ORDERED that the applicant proceed forthwith to arrange more attractive schedules for the operation of said trains and provide for the public better facilities and a more efficient and reasonable service.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. R-1, SUB 204

ELLER, COMMISSIONER, DISSENTING: No one reasonably oriented to the phenomenal present and projected growth of Wilmington and New Hanover County can be unsympathetic to Protestants' cause in trying to prevent loss of any transportation service to that area and, in particular, loss of their last remaining rail passenger service to the area. Whatever our sympathies, however, the Utilities Commission must, by the very nature of its duties, go by the facts of record and the realities of the times. An objective consideration of this record will not, in my view, support any action other than approval of the application.

The virtual extinction of all feeder rail passenger service is a national and local reality. This Commission has unsuccessfully tried before to stem this tide of extinction in North Carolina. For example, in 1960, on

facts stronger than here, this Commission denied Southern Railway Company's application to remove the last remaining east-west passenger service in the State and the last rail passenger service for Durham, Duke University, the University of North Carolina, and others in Piedmont North Carolina. First, the Superior Court of North Carolina, and then the Supreme Court of North Carolina, affirmed this Commission's denial. The railroad then invoked the jurisdiction of the Interstate Commerce Commission, which allowed the railroad's application, in effect overruling all previous state actions. A three-judge Federal Court then overruled the Interstate Commerce Commission. The United States Supreme Court then overruled the lower Federal Court and the trains were removed. This was a four-year, expensive battle. One may expect the same battle here - and the same result. A denial of this application can amount to little more than an expensive filibuster of the wrath which is bound to come.

I agree with those who feel the railroads have used little imagination and promotion in attempting to keep rail passenger service of the type here involved. Nevertheless, for whatever reason, it is a truism that (except for main-line interstate and commuter service in highly urbanized areas) the public has all but abandoned rail passenger service. This is true in the case before us. In the years 1964, 1965, and the first nine months of 1966, there was on Train 49 approximately one crew member for every two passengers. In the first nine months of 1966 these two trains averaged only about ten passengers per mile, despite an extended air-line strike during the period. For the past 2 1/2 years, the average number of persons using these trains daily is less than 18. The United States Government has removed mail-handling from the trains. For every mile the trains are operated, the railroad loses $2.13. It incurs about $3.61 expenses for every dollar of revenue the trains produce. On a system-average basis, the trains are operating at an annual loss of nearly $200,000.

In summary, no matter how much these trains may be wanted, the unavoidable fact is that they are not being used to any substantial extent and the revenue they produce does not meet the expenses of operating them.

For the foregoing reasons, and based upon the precedent of other cases, it is my view that no alternative other than discontinuance of these trains is lawfully justified.

Thomas R. Eller, Jr., Commissioner

DOCKET NO. R-29, SUB 162

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Southern Railway Company for)
Authority to Discontinue Its Agency Station) ORDER
at Gulf, North Carolina, and to Dismantle) DENYING
and Remove the Present Station Building) APPLICATION

HEARD IN: The Hearing Room, State Library Building, Raleigh, North Carolina, on January 12, 1967

BEFORE: Commissioners Clarence H. Noah (presiding), Sam O. Worthington and John W. McDevitt

APPEARANCES:

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For: The Using and Consuming Public

For the Commission Staff:

Edward B. Hipp
General Counsel
North Carolina Utilities Commission
Raleigh, North Carolina

NOAH, COMMISSIONER: Southern Railway Company (herein called Southern or Petitioner) on October 6, 1966, petitioned this Commission for authority to discontinue its agency station at Gulf, North Carolina, to dismantle and remove the present station building and to handle business from its agency station at Goldston, North Carolina. Pursuant to the rules of the Commission, Petitioner posted an appropriate public notice at this station. Boren Clay Products Company, the largest shipper using the station facilities at Gulf, through Assistant Attorney General

George Goodwyn, protested Southern's proposal and presented evidence, by a witness, of the inconvenience to which it would be put should the petition be approved.

Mr. A.N. Thibeau, representing Transportation-Communication Employees Union, intervened in opposition to closing the agency but offered no testimony.

Upon consideration of the testimony and evidence adduced of record at the hearing in Raleigh, North Carolina, on January 12, 1967, the Commission makes the following

FINDINGS OF FACT

1. Gulf is an open-station agency on Petitioner's line extending from Greensboro to Sanford at which it also interchanges property with Norfolk Southern Railroad Company. Petitioner is a common carrier by rail operating within North Carolina in both interstate and intrastate commerce and as such is subject to jurisdiction of this Commission.

2. At Gulf proper the revenue from freight forwarded and received for the year 1965 amounted to only $691 and for the year ended September 30, 1966, amounted to $3,294. Direct agency expenses amounted to $7,127 and $7,074 for these respective periods. The formula employed by Petitioner which produced agency expense ratio of 3.29% for other stations on Southern and, applying such against total expenses, resulted in operation deficits at Gulf of $6,842 for the first period and $5,715 for the second period.

3. Gulf is the governing station for the nonagency station of Boren Siding, located 1.2 miles west of Gulf, the site of the prinicipal shipper of Boren Clay Products Company. For the year 1965 and the year ended September 30, 1966, respectively, Boren produced total gross revenues of $187,981 and $186,085. After deducting actual agency expenses at Gulf, Boren contributed to Petitioner on outbound shipments gross revenues of $180,854 and $179,011, respectively. After deducting other expenses and taxes of Petitioner for the transportation of this traffic, there were net contributions to company expenses greater than company-average-prorated expenses of $66,089 and $65,412 for the respective periods.

4. The transfer of Boren's business to the proposed governing station of Goldston, a distance of 2.4 miles, would adversely affect the schedules of Boren personnel in meeting its business requirements and necessitate considerable inconvenience to Boren in transacting its transportation business. Such a transfer would leave the Gulf Agency with little or nothing to do in view of which there would be no need for maintaining the station.

5. Under Southern's proposal, the agency at Goldston would govern Boren. Unlike the business handled by the Gulf

agency, practically all of which moves outbound, the business at Goldston comprises mostly inbound shipments. For the same periods, Goldston received 429 cars, producing net revenues of $98,616 for the first period, and 170 cars, producing net revenues of $45,033 for the second period. Petitioner's expenses at Goldston are less than those at Gulf. To the revenues accruing from traffic handled at Goldston, are added the revenues accruing at Gulf producing total net revenues for the two periods of $180,841 and $130,321.

6. It is not in the public interest to discontinue the agency station at Gulf and to handle future business through the agency at Goldston.

CONCLUSIONS

In proposing the discontinuance of the agency station at Gulf, Petitioner gave consideration only to revenues received from concerns or firms located at Gulf proper which amounted to $691 in 1965 and $3,294 in 1966. It failed to give Gulf credit for the very substantial business handled by the Gulf agent for Boren Siding, only 1.2 miles from the Gulf station. The Boren information was requested by the Commission and furnished by Petitioner after the hearing closed. It is our opinion, and we conclude, that the results of the Boren business should be reflected in the accounts of the Gulf station. It is true that Boren is the only large shipper Petitioner has at or near Gulf but it is our opinion, and we conclude, that the revenues therefrom should be considered in determining whether or not the station should be discontinued. The revenues from Boren's business are sufficient to pay all of Petitioner's expenses incurred in handling its traffic and they produce a profit to Petitioner for handling it.

G.S. 62-118 empowers this Commission, after petition, notice and hearing, and upon finding that public convenience and necessity are no longer served, or that there is no reasonable probability of a public utility realizing sufficient revenue from its service to meet its expenses, to authorize abandonment or reduction of such service. In State v. Southern Ry. Co., 254 N.C. 73, our Supreme Court said that the doctrine of convenience and necessity is a relative or elastic theory rather than an abstract or absolute rule; that the facts in each case must be separately considered and from those facts it must be determined whether or not public convenience and necessity require a given service to be performed or dispensed with, and that the convenience and necessity required are those of the public and not of an individual or individuals. Our Supreme Court said, also, in this case, that the power conferred upon the Utilities Commission to authorize a discontinuance of an established service indicates that the General Assembly intended that the Commission exercise this power in large measure according to its judgment and discretion.

The witness, Chairman of the Board of Boren Clay Products Company, who resides in Pleasant Garden, a nearby town, at which the Company maintains another plant, testified that present plans are to move its Pleasant Garden plant to Gulf. These plans, he testified further, would very likely not materialize if the station agency at Gulf is discontinued.

In consideration of the fact that Boren Clay Products Company produces very substantial revenues for Southern at Gulf on movements of raw materials from Gulf to Greensboro at which point they are manufactured into finished products and shipped to many points throughout a wide area, as well as the fact that there is little use by others of the Gulf facilities, we conclude that the very substantial business generated by Boren is in the public interest and is sufficient to more than meet Petitioner's expenses. The petition will be denied.

IT IS, THEREFORE, ORDERED That petition of Southern Railway Company for authority to discontinue its agency station at Gulf and to dismantle the station building be, and the same hereby is, denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of June, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. R-5, SUB 231

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Railway Express Agency, Incorporated, for authority to close and discontinue its office at Garner, North Carolina	) RECOMMENDED ORDER) GRANTING APPLICATION) AND PROVIDING FOR PICKUP) AND DELIVERY SERVICE) FROM RALEIGH

HEARD IN: Old YMCA Building, Raleigh, North Carolina, on Tuesday, July 25, 1967, at 9:30 a.m.

BEFORE: Commissioner Thomas R. Eller, Jr.

APPEARANCES:

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For the Commission Staff:

Edward B. Hipp
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For the Intervenor:

George A. Goodwyn
Assistant Attorney General
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For: Using and Consuming Public

ELLER, HEARING COMMISSIONER: This is an application heard as captioned after notice duly provided. The application is contingent upon the Commission's action on Southern Railway's petition to discontinue its Garner agency and dismantle and remove the station building at Garner. In other words, since the station building at Garner now houses the two agencies, granting Southern's application would require Railway Express Agency either to find new housing and a new Commission Agent, or to discontinue its agency there. If Southern's application is granted, the Agency seeks to discontinue its service at Garner and handle all its business through its Raleigh office. On the other hand, if Southern's petition is denied, the Agency desires to continue as before. An order is being issued simultaneously herewith permitting Southern Railway Company to discontinue its agency at Garner and dismantle the station. Therefore, this order is made on that premise.

The Agency contends that its business at Garner produces so little revenue that it will not be able to obtain an office and Commission Agent there separate from the railroad and, therefore, it should be allowed to discontinue its

agency at Garner and conduct all Garner business through the Raleigh office.

Protestants contend that it would work a hardship and inconvenience on users of express service at Garner should they be required to bring their shipments to the Agency's Raleigh office for sending and to come to the Raleigh office for delivery.

Upon the evidence adduced, the Hearing Commissioner now makes the following

FINDINGS OF FACT

1. Applicant, Railway Express Agency, Incorporated, is a duly authorized and operating carrier of commodities and articles moving in express service in intrastate commerce in North Carolina, is subject to the jurisdiction of the North Carolina Utilities Commission, and is properly before the Commission, which has jurisdiction over the subject matter involved in these proceedings.

2. Applicant for many years has maintained an agency at Garner in Wake County, North Carolina. This agency is operated jointly with Southern Railway Company in facilities provided by the railroad. The Agency has been granted over-the-road authority in substitution of rail service over a number of routes in North Carolina, including a route over U.S. Highway 70 through Garner. The Agency does not use rail service in transporting commodities and articles tendered it to and from Garner, but uses trucks over the routes granted it. The present Garner Agency station is about 8 miles northeast of the Agency's Raleigh station.

3. For the period June 1, 1966 - May 31, 1967, the Agency handled through its agency at Garner an average of 51 shipments per month, producing average revenues of $333.00 monthly. The Agency incurred expenses of about $33.00 monthly related to this revenue.

4. Garner and Raleigh are on the same telephone exchange and are connected by two all-weather, paved roads.

5. The Agency's Garner patrons now deliver and pick up their shipments at the Garner station. If the application is granted, Garner area patrons would be required to go to the Agency's Raleigh office to tender or receive express shipments.

The Agency provides no other pickup and delivery service within the corporate limits of Garner. However, it does provide pickup and delivery service throughout its Raleigh area. This pickup and delivery service for Raleigh does not reach Garner, but it extends to within a few miles of it; the Raleigh pickup and delivery service would not have to be extended materially farther east of the Agency's Raleigh

office to include Garner than it already extends north of the Raleigh office.

CONCLUSIONS

Since the railroad's agency station is being discontinued, four possible solutions are presented:

(1) Discontinue its Agency at Garner as applied for and require Garner patrons to come to the Raleigh office to tender or receive express shipments;

(2) Relocate the Garner Agency and obtain a Commission Agent to operate the agency separate from the railroad without pickup and delivery service;

(3) Make deliveries in Garner from the over-the-road Agency truck which passes through Garner daily;

(4) Discontinue the Garner Agency and provide pickup and delivery service in Garner through the Raleigh office.

The first solution would be unduly and unnecessarily burdensome on Garner patrons and ultimately would cause the Agency to lose the revenue it now derives from Garner patrons. The second solution is impracticable in that the revenue generated by Garner business will not support an adequate service either on a straight salary or commission basis. The third solution would be burdensome on the Agency in that the equipment it runs through Garner is of the tractor-trailer type, is on a through-run, and is loaded for the through-run.

In the judgment of the Hearing Commissioner, the fourth solution is justified and required by the public convenience and necessity. To grant the application insofar as it seeks to close the Garner Agency station is justified by the public convenience and necessity only if the basic service required by shippers and receivers of express is unchanged or improved.

In my opinion, a pickup and delivery service in Garner from the Agency's Raleigh office would be an improvement over existing service. It can be accomplished without material burden on the Agency's Raleigh operations and such a service should result in increased business for the Agency.

ACCORDINGLY, IT IS ORDERED:

1. That Railway Express Agency, Incorporated, be, and it hereby is, authorized to discontinue its Garner agency and to make its Raleigh agency the governing agency for Garner.

2. That Railway Express Agency, Incorporated, be, and it hereby is, directed to institute and thereafter continue pickup and delivery service in the Town of Garner from its

Raleigh agency to the same extent and as an adjunct of its Raleigh pickup and delivery service.

3. The pickup and delivery service herein ordered shall begin no later than the same day Southern Railway Company discontinues its Agency station at Garner and Railway Express Agency, Incorporated, shall take all necessary steps to fully inform existing and prospective shippers in Garner of the improved express service to be offered them.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. R-5, SUB 236

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Railway Express Agency,) ORDER
Incorporated, for Authority to Close Fifty-) GRANTING
Nine (59) of its offices in North Carolina) APPLICATION

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on December 5, 1967

BEFORE: Chairman Harry T. Westcott (presiding), and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., and Clawson L. Williams, Jr.

APPEARANCES:

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For: Transportation-Communication
Employees Union

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Kernersville, North Carolina
For: The Town of Kernersville, North Carolina

C.N. Lamb
Mountain Street
Kernersville, North Carolina
For: The Kernersville Merchants Association

William J. Sugg
Princeton, North Carolina
For: The Town of Princeton, North Carolina

C.C. Hovis
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For: Self

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Raleigh, North Carolina

For the Using and Consuming Public:

George A. Goodwyn
Assistant Attorney General
Raleigh, North Carolina

WESTCOTT, CHAIRMAN: On August 30, 1967, Railway Express Agency, Incorporated (Applicant or REA), filed its application herein seeking authority to close and discontinue its existing agency facilities at fifty-nine (59) points in North Carolina.

At twenty-two (22) of the points REA proposes to simultaneously institute local pickup and delivery (P&D) service by extending such service from a larger nearby point where it will continue to maintain an express office and from which it now performs service. At the remaining thirty-seven (37) points REA proposes to designate a larger nearby point where it will continue to maintain an express office as the governing agency for the handling of traffic to and from the point where the office is to be discontinued, but without performing pickup and delivery (P&D) service.

Applicant offered for the record exhibits showing the twenty-two (22) points where it proposes to institute pickup and delivery service in lieu of maintaining a local agency and the thirty-seven (37) points where it proposes to designate a larger nearby point as the governing agency in lieu of a local agency facility.

On November 2, 1967, Applicant amended its application to provide that, with respect to the twenty-two (22) offices to

be closed where it proposes to institute pickup and delivery service from a nearby governing agency in lieu of the present local agency facility, it will accept collect telephone calls from patrons at any of the involved twenty-two (22) points to the designated governing agency for that point whenever such call is related to existing or potential business between it and the calling patron. Thus, it alleges that a patron at any one of these points will be able to contact it to request a pickup of an outgoing shipment, to inquire about the arrival of an incoming shipment, or otherwise to obtain any information about express service, all without cost to the calling patron.

At the hearing, and as a result of a suggestion made by the Commission, REA further amended its application by stipulating that Selma will be designated the governing agency for Princeton rather than Goldsboro. This was satisfactory to interested parties from Princeton.

The evidence of Applicant tends to show that the proposal herein is a part of a statewide program being undertaken by it to place its entire express service in the State on a more modern and efficient basis by the elimination of marginal offices, which individually handle only a very small volume of express shipments, with pickup and delivery service provided from a larger nearby point in every case where such an approach is feasible. The witness for Applicant maintains that the proposed cost saving measures can be put into effect without impairing the overall level of service offered to the public and that said measures are absolutely essential to Applicant's survival as a transportation agency.

The evidence also tends to show that Applicant now maintains over 300 offices throughout the State, that no other transportation agency maintains so large a number of offices or terminals, that the fifty-nine (59) express offices it seeks to close are the smallest offices in the State in terms of volume of traffic, that service to and from the twenty-two (22) offices where pickup and delivery service is proposed to be provided will be improved and that business to and from the remaining offices proposed to be made subject to a nearby point as the governing agency amounts, in each instance, to less than one shipment per day on an average, including both interstate and intrastate traffic.

The witness for Applicant testified that notice of its proposed action had been duly posted at each of the fifty-nine (59) offices here involved, except Hamilton and Castle Hayne, at which points its previous representative had resigned and there was no place to post copy of the notice. The witness also testified that, in addition to the regular notice required by the Commission's Rules REA also complied with that part of the Notice of Hearing dated November 8, 1967, which required Applicant "to post at each of the fifty-nine (59) agencies proposed to be closed a notice of

the time, place, and purpose of the hearing as assigned herein".

The record also shows that the proposal of Applicant does not involve any change in rates or charges, that no additional charge will be made for redelivery of a shipment if that should prove necessary, and that no additional charge will be made for the performance of the proposed pickup and delivery service.

A public witness from Winterville appeared at the hearing and stated her preference for Ayden rather than Greenville as the governing agency for Winterville. The witness testified that she worked for a country store that did not do any shipping but that the store received on the average of perhaps thirty (30) express shipments per year.

Mr. J.W. Matthews, Florence, South Carolina, appeared and offered evidence and testimony on behalf of the members of the Transportation-Communication Employees Union who now serve as joint agents for the Seaboard Coast Line Railroad and REA at twenty-seven (27) points involved in the application. The evidence tends to show that in the event the application herein is granted the joint agents at the involved agencies will lose the commissions they now receive as agents for REA.

The Commission staff offered evidence and testimony tending to show that, in the interest of the public and at the direction of the Commission, it caused a careful investigation to be made into and concerning the proposed action of the Express Company. The Investigation Division of the Commission interviewed every person or party that could be located that it seemed logical to believe might have a legitimate interest in the matter with view of affording all parties actually using the involved service a chance to express their views. The evidence offered also tends to show that all parties who at any time expressed an interest in the matter were kept fully informed, and that all letters and petitions in regard to the matter that were received were promptly answered and all parties kept informed as to their rights and of the necessity of their views with respect to the matter being placed in the record in the form of evidence.

FINDINGS OF FACT

Careful consideration of the application and the evidence adduced at the hearing justifies the following Findings of Fact:

1. That Railway Express Agency, Incorporated, is a common carrier engaged in the transportation of property between points in North Carolina in express service and is subject to the jurisdiction of this Commission.

2. That Applicant does not need additional authority from this Commission in order to perform the proposed pickup and delivery service.

3. That service to the twenty-two (22) points and places shown in Part 1, of Appendix A, hereto attached, to and from which Applicant proposes to perform pickup and delivery service will be improved.

4. That Applicant will accept collect telephone calls from its patrons at the twenty-two (22) points to and from which it proposes to perform pickup and delivery services from a nearby agency.

5. That the name of Applicant, its business location and telephone number will be shown in the Yellow Pages of the telephone directory of involved towns and municipalities.

6. That the volume of express business at the points and places where pickup and delivery services will not be performed is not of such volume as to require Applicant to maintain a separate REA express office.

CONCLUSIONS

A careful review of the evidence in this case directs the attention of the Commission to G.S. 62-32(b), which provides, as pertinent to this matter, the following:

> "The Commission is hereby vested with all power necessary to require and compel any public utility to provide and furnish to the citizens of this State reasonable service of the kind it undertakes to furnish. . . ."

In Utilities Commission v. Railroad, 233 N.C. 365, the Court had this to say:

> "Questions of convenience to individuals and to the public find their limitations in the criterion of reasonableness and justice. No absolute rule can be set up and applied to all cases. The facts in each case must be considered to determine whether public convenience and necessity require the service to be maintained or permit its discontinuance. . . ."

The Commission realizes that Applicant in this instance is in need of streamlining and modernizing its service and protecting its revenues, based upon the operating experience as shown by its annual report filed with the Commission for the calendar year 1966. On the other hand, the public is entitled to a reasonable amount of service if it is to continue to patronize the service of Applicant.

> "The question in each case must be determined in light of all the facts, and with a just regard to the advantage to be derived by the public and the expense to be incurred by

the carrier." Washington ex rel. Oregon R. & N. Co. V. Fairchild, 224 U.S. 510.

This above case is equally applicable to the matter before us in this proceeding. This case must be determined in the light of all the facts, with just regard to the convenience and necessity of the public. The benefit of curtailment of agency service must be weighed against the inconvenience to which the public may be subjected. There is no record of evidence in this proceeding which indicates that the shipping and receiving public will be materially inconvenienced if the relief is granted to the Applicant as sought. On the other hand, there is evidence that the service of Applicant will be improved insofar as the twenty-two (22) points and places that are now proposed to receive pickup and delivery service are concerned. Therefore, in view of this improvement in service and of the fact that the volume of traffic to and from the other points where pickup and delivery service will not be performed is very light, we are of the opinion and conclude that the application herein should be granted.

THEREFORE, IT IS ORDERED:

1. That the application of Railway Express Agency, Incorporated, for authority to (a) close and discontinue its agency facilities at fifty-nine (59) points in North Carolina, (b) simultaneously institute pickup and delivery service at twenty-two (22) of the involved points from nearby agency facilities as shown in Part 1, of Appendix A, hereto attached, and (c) as to the remaining thirty-seven (37) points, designate a larger nearby point as the governing agency, as shown in Part 2, of Appendix A, be, and the same is hereby, granted.

2. That Railway Express Agency advise the Commission the date upon which its offices at the fifty-nine (59) points here involved are closed and discontinued and the other arrangements hereinbefore outlined for the handling of its traffic at involved points are made effective.

IT IS FURTHER ORDERED That a copy of this order be transmitted to Applicant, to each of the attorneys of record, to Miss Fannie Mae Ange of A.W. Ange & Co., Winterville, North Carolina, and to all of the parties or persons shown on the Commission's mailing list in this proceeding.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. R-5, SUB 236

APPENDIX A

PART 1

OFFICE	P&D FROM	OFFICE	P&D FROM
Bessemer City	Gastonia	Hudson	Hickory
Canton	Asheville	Jamestown	Greensboro
Cramerton	Gastonia	Kernersville	Greensboro
Creedmoor	Henderson	Louisburg	Henderson
Drexel	Hickory	Mebane	Greensboro
Franklinton	Henderson	Norlina	Henderson
Gibsonville	Greensboro	Pisgah Forest	Hendersonville
Granite Falls	Hickory	Reidsville	Greensboro
Grover	Gastonia	Swannanoa	Asheville
Guilford College	Greensboro	Sylva	Asheville
Haw River	Greensboro	Thomasville	Greensboro

PART 2

OFFICE	GOVERNING AGENCY	OFFICE	GOVERNING AGENCY
Atkinson	Burgaw	Neuse	Raleigh
Battleboro	Rocky Mount	Oak City	Robersonville
Camden	Elizabeth City	Pikeville	Goldsboro
Castle Hayne	Wilmington	Pine Level	Selma
Cofield	Ahoskie	Pollocksville	New Bern
Delco	Acme	Princeton	Selma
Gibson	Laurinburg	Saluda	Hendersonville
Hallsboro	Whiteville	Shawboro	Elizabeth City
Halifax	Weldon	Stantonsburg	Wilson
Hamilton	Robersonville	Stedman	Fayetteville
Hobgood	Tarboro	Stony Point	Taylorsville
Hoffman	Aberdeen	Tillery	Weldon
Hot Springs	Marshall	Vanceboro	New Bern
Lake Waccamaw	Whiteville	Vass	Southern Pines
Lilesville	Wadesboro	Walstonburg	Wilson
Lucama	Wilson	Whitakers	Rocky Mount
Macon	Henderson	Winterville	Greenville
Middlesex	Zebulon	Youngsville	Wake Forest
Moncure	Sanford		

DOCKET NO. R-5, SUB 237

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Railway Express Agency, Incorporated, for Authority to Relocate Its Agency Facility at Newton and to Close and Discontinue Its Agency Facilities at Catawba, Maiden, and Newport, N.C.	ORDER GRANTING APPLICATION

BY THE COMMISSION: Railway Express Agency, Incorporated, (Applicant or REA), by application filed with the Commission on October 9, 1967, as amended, seeks authority to (a) relocate its agency facilities at Newton, (b) close and discontinue its agency facilities at Catawba and Maiden simultaneously providing pickup and delivery service to these points from its agency at Newton, and (c) to close and discontinue its agency at Newport designating Havelock as the governing agency for patrons in the vicinity of Newport.

Newton, Catawba, and Maiden are located in Catawba County, N.C. Newton, on the Southern Railway, is a merchant commission agency, approximately 10.1 rail miles southeast of Hickory; Catawba, on the Southern Railway, is a joint commission agency, approximately 9.1 rail miles east of Newton, and Maiden, on the Carolina and Northwestern Railway, is a joint commission agency, approximately 7.4 rail miles south of Newton. Newport, Carteret County, North Carolina, on the Atlantic and East Carolina Railway, is a joint commission agency, approximately 7.6 rail miles southeast of Havelock.

Applicant has complied with Rule R1-14 of the Commission's Rules of Practice and Procedure requiring the posting of notice concerning its proposed action.

Applicant states that:

(1) The proposed new location in Newton at the Industrial Park County Road No. 1714, will provide larger, more modern and efficient facilities than are available at the present location at 1105 North College Avenue.

(2) It will continue to provide all services that it presently provides through its existing agency facilities in Newton, without change in any respect other than the location itself.

(3) It transports its shipments to and from Newton as well as to and from Catawba by means of its over-the-road truck operations between Greensboro and Hickory, and to and from Maiden by means of its over-the-road truck operations between Charlotte and Rutherfordton.

(4) The arrangements whereby REA presently provides line-haul transportation to and from Catawba is

uneconomical and inefficient in that it requires a stop in both directions by a 40-foot over-the-road tractor-trailer unit, and to and from Maiden is even more uneconomical and inefficient in that it involves not only a stop in both directions for a large tractor-trailer unit but Maiden being nine miles north of Lincolnton and served as an off-route point requires these large units to drive an additional eighteen miles to render involved service.

(5) It proposes to close its existing agencies at Catawba and Maiden and to provide local pickup and delivery service to these points from its agency at Newton.

(6) Catawba and Maiden are on the same telephone exchange as Newton, affording toll-free calls between all three points.

(7) The proposed arrangements to serve Catawba and Maiden from its Newton agency will result in an improvement of express service for Maiden, without any lessening of convenience of the express service for its patrons at Catawba, and with increased operating economies and efficiencies for REA.

(8) It transports its shipments to and from Newport by means of its over-the-road truck operations between Kinston and Morehead City.

(9) The Atlantic and East Carolina Railway has notified it that effective thirty days from August 10, 1967, it would have to discontinue utilizing the A&EC freight agent at Newport to handle REA business and to vacate and discontinue using the freight depot for its agency facilities. REA being unable to locate an interested party to act as its agent, was required to "disjoin" its Newport agency and vacate the railroad premises on September 22, 1967, at which time it necessarily suspended express service at Newport.

(10) For the twelve months ending August, 1967, it handled through its office at Newport an average of 33.8 shipments per month, producing average gross revenue of $255.19 per month, with average compensation paid by it to the agent of $25.49 per month.

(11) If allowed to close its agency at Newport it will designate its agency at Havelock as the governing agency for patrons in the vicinity of Newport.

In the absence of the filing of protests, the Commission in the interest of the public, caused an investigation to be made into and concerning the proposed action of Applicant. The investigation reveals that the proposed relocation of the Express Agency's facilities at Newton is in the public interest, that parties at Maiden and Catawba that might reasonably be expected to have an interest in the matter

voice no opposition to Applicant's proposed action, and that in the circumstances hereinbefore outlined there should be no objection to designation of Havelock as the governing agency for Newport, North Carolina.

IT IS, THEREFORE, ORDERED That the application of Railway Express Agency, Incorporated, for authority to (a) relocate its agency facilities at Newton from 1105 North College Avenue to the Industrial Park, County Road No. 1714, (b) to close and discontinue its agency facilities at Catawba and Maiden simultaneously providing pickup and delivery service to these points from its agency at Newton and (c) to close and discontinue its agency at Newport designating Havelock as the governing agency for patrons in the vicinity of Newport, be, and the same is hereby, approved.

IT IS FURTHER ORDERED That applicant notify the Commission the date it relocates its facilities at Newton and the date it closes and discontinues its agency facilities at Catawba, Maiden, and Newport, North Carolina.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. R-29, SUB 163

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition of Southern Railway Company to discontinue agency station at Troutman, North Carolina, and to dismantle and remove the station building	ORDER AUTHORIZING DISCONTINUANCE OF AGENCY STATION AT TROUTMAN, NORTH CAROLINA

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on February 9, 1967

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah, and John W. McDevitt (presiding)

APPEARANCES:

For the Applicant:

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For the Commission's Staff:

Edward B. Hipp
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North Carolina Utilities Commission
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For Himself:

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No Protestants.

McDEVITT, COMMISSIONER: Southern Railway Company (Southern) filed a petition on December 5, 1966, for authority to discontinue its agency station at Troutman, North Carolina, dismantle and remove the station building, and handle its business from the agency station at Mooresville, North Carolina.

Public hearing was scheduled and held in Raleigh on February 9, 1967. Southern was present and represented by counsel. No formal protests were received and no protestants appeared at the hearing. The Commission received one letter from a shipper stating that the proposed action would inconvenience his company by requiring additional travel of one mile to the next closest agency station located at Statesville. Mr. A.N. Thibeau appeared in his own behalf, but did not offer testimony.

Based on Southern's exhibits and testimony of Mr. A.B. Gleason, statistician, and Mr. C.P. Morris, trainmaster and relevant records, the Commission makes the following

FINDINGS OF FACT

1. The Troutman agency and Barium Springs, a nonagency station controlled by Troutman, are located in Iredell County on Southern's branch line connecting Statesville and Mooresville.

2. Mooresville, the proposed governing agency station, is located nine (9) miles south of Troutman and ten (10) miles south of Barium Springs. Mooresville, Troutman, Barium Springs, and Statesville are connected by a hard surfaced Highway (N.C. Highway No. 115) which parallels Southern's rail line between these points. Local telephone service is available between Mooresville, Troutman, and Barium Springs. Office hours of the Mooresville agency station are 8:00 a.m. to 5:00 p.m., the same as observed at the agency station to be discontinued.

3. Motor common carriers of freight (Helms) and passengers (Greyhound) serve Troutman and Barium Springs. Rail passenger service was discontinued several years ago.

4. For the year 1965, Southern's carload freight revenue at Troutman was $5,653 on twenty-nine (29) carloads received and three (3) carloads forwarded. Less carload freight revenue was $3,343 on three (3) shipments received and two hundred ninety-eight (298) shipments forwarded. Miscellaneous revenue was $127. Total freight and miscellaneous revenue was $9,123. Total agency expense for 1965 was $6,974.

5. For the twelve (12) months period ending November 30, 1966, Southern's carload freight revenue at Troutman was $7,570 on twenty-five (25) carloads received and nine (9) carloads forwarded; less carload freight revenue was $2,088 on one (1) shipment received and one hundred eighty-four (184) forwarded. Miscellaneous revenue amounted to $172. Total freight and miscellaneous revenue for the period was $9,830. Total agency expense was $6,982.

6. Troutman is the governing agency and handles billing and service matters for the nonagency station at Barium Springs, which is located one mile north. For the year 1965, Southern's carload freight revenue at Barium Springs was $3,934 on twenty-four (24) carloads received and five (5) carloads forwarded. For the twelve (12) months period ending November 30, 1966, carload freight revenue was $3,689 on twenty-two (22) carloads received and four (4) carloads forwarded. Less carload freight is not handled at Barium Springs.

7. Shipments received in 1965 and 1966 were principally coal, lumber, and building materials. Shipments forwarded were principally cotton yarn, clothing, and furniture products.

8. Shippers and receivers of carload freight would conduct their business with the proposed governing agency station of Mooresville in essentially the same manner they have conducted their business with the Troutman agency. Less carload freight would be received and forwarded at Mooresville or Statesville at the discretion of the shippers and receivers.

CONCLUSIONS

Southern has borne the burden of proof and has established by competent evidence that

(1) public convenience and necessity does not require continued operations of the agency station at Troutman;

(2) the public will be adequately served if Southern's business is conducted from the agency station at Mooresville and Statesville;

(3) the petition should be allowed and Southern permitted to discontinue the agency station at Troutman, to dismantle and remove the present building and make the

agency station at Mooresville the governing agency for Troutman and Barium Springs.

Accordingly, IT IS ORDERED That the petition of Southern Railway Company be, and hereby is, approved and that Southern be authorized to discontinue its agency station at Troutman, North Carolina, to dismantle and remove the present station building and to make the agency station at Mooresville the governing agency for Troutman and Barium Springs.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of June, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. R-29, SUB 165

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Southern Railway Company for)
authority to discontinue its agency) RECOMMENDED ORDER
station at Garner, North Carolina) GRANTING PETITION

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on Tuesday, July 25, 1967, at 9:30 a.m.

BEFORE: Commissioner Thomas R. Eller, Jr.

APPEARANCES:

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Thomas A. Banks
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For: The Town of Garner

For the Commission Staff:

Edward B. Hipp
Commission Counsel
North Carolina Utilities Commission
Raleigh, North Carolina

For the Intervenor:

George A. Goodwyn
Assistant Attorney General
Justice Building
Raleigh, North Carolina
For: Using and Consuming Public

ELLER, HEARING COMMISSIONER: This is a petition by Southern Railway Company (Southern) held as captioned after proper notice to the public.

Petitioner contends public convenience and necessity no longer requires the agency station at Garner and that all business conducted through its facilities can be handled through its Raleigh agency station without diminishing rail service at Garner or inconveniencing rail patrons.

Protestants contend that the Garner agency station is profitable, that there is no justifiable reason to discontinue it and that the Town of Garner may be handicapped in obtaining industrial and commercial enterprises if the agency station is discontinued.

Upon the evidence adduced, the Hearing Commissioner now makes the following

FINDINGS OF FACT

1. Petitioner, Southern, is a duly authorized and operating common carrier by rail in intrastate Commerce in North Carolina, is subject to the jurisdiction of the North Carolina Utilities Commission, and is properly before the Commission, which has jurisdiction over the subject matter of the proceedings.

2. In furtherance of its operations in North Carolina, Southern maintains, and for many years has maintained, an agency station at Garner in Wake County, North Carolina, the station being on Southern's Danville-Washington-Richmond Division and on old U.S. Highway No. 70 about 5.8 rail miles (8.2 highway miles) east of Southern's Raleigh station and about 9.2 miles west of the Clayton station. The agency is operated jointly with the Railway Express Agency, which

has applied to discontinue its agency at Garner if Southern is permitted to discontinue its agency. The rail agency is also the governing agency for the point of Auburn, but no rail business is conducted there.

3. At the time of hearing, Southern's principal business at Garner was with three (3) shippers, none of whom offered objections to discontinuance of the agency. For the most recent test period available (twelve (12) months ended May 31, 1967), 102 carload shipments were received at Garner. These shipments, consisting primarily of fertilizer materials and coal, produced revenues to Southern totalling $17,901. Two (2) carload shipments of wire reels and coils were made from the station, producing revenues of $234. No less carload shipments were handled at the station; nor were there any passengers or mail. Commodities moving in express service reach Garner by truck rather than by rail.

Total revenues at the station for the period, including $103 in miscellaneous revenues, were $18,238. Direct expenses at the station were $7,026.

4. If the Garner agency station is discontinued, there will be no change in Petitioner's tracks at Garner; nor will there be any change in the number of trains serving Garner. All freight cars will be handled the same as now. It would be necessary for a shipper of carload freight to telephone the Raleigh station rather than the Garner station, but this is a local (toll free) call. Consignees will be notified by telephone or mail of the arrival of cars. Signing of bills of lading on outbound carload shipments would be done at the Raleigh station. Full provisions for delivery of order notify or C.O.D. carload shipments would be made. The Raleigh station would offer prepayment and credit arrangements so that shippers would not need to go to the Raleigh station except on unusual matters. The type shipments involved at Garner do not give rise to a high number of damage claims, but inspections can be made almost as quickly from the Raleigh office as from the present Garner office. Procedures for settling claims would not be changed.

CONCLUSIONS

1. Petitioner has borne the statutory burden of proof and has established by the greater weight of evidence that: (a) The present Public Convenience and Necessity does not require the continued operation of Petitioner's agency station at Garner, North Carolina; (b) No existing shipper or receiver will be materially inconvenienced or affected by closing the agency station at Garner; (c) The public can and will be adequately served if Petitioner's business at Garner is administered through its Raleigh agency station; (d) Petitioner's business at Garner can be handled in its Raleigh agency station without materially or adversely affecting or reducing the service Petitioner now renders through its Raleigh station to Raleigh patrons.

2. Petitioner is legally entitled to close its agency station at Garner and thereafter conduct all its business for the Garner area through its Raleigh agency and station.

IT IS, THEREFORE, ORDERED:

1. That the Petition in this docket be, and the same hereby is, approved.

2. That Southern Railway Company be, and it hereby is, authorized to discontinue its agency station at Garner, North Carolina, and to dismantle and remove the present station building; provided that Petitioner shall give Railway Express Agency and this Commission at least fifteen (15) days' notice in advance of the actual date of discontinuance.

3. Petitioner is authorized to make its Raleigh agency the governing agency for all its business heretofore conducted through its Garner agency.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. R-29, SUB 166

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
The petition of Southern Railway Company to discontinue agency station at Hildebran, North Carolina, and dismantle and remove the station building	) RECOMMENDED ORDER) ALLOWING PETITIONER) TO DISCONTINUE) AGENCY STATION AND) DISMANTLE AND REMOVE) THE STATION BUILDING

HEARD IN: City Hall, Hickory, North Carolina, on April 4, 1967, at 10:00 a.m.

BEFORE: Commissioner Sam O. Worthington

APPEARANCES:

For the Petitioner:

James M. Kimzey
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina

For the Protestants:

C.C. Hovis
Transportation-Communications Employees Union
Room 809
Independence Building
Charlotte, North Carolina

Ralph Yoder
Yoder's Food Store
P.O. Box 496, Hildebran, North Carolina

Ernest Yoder
Hildebran, North Carolina

NORTHINGTON, COMMISSIONER: Southern Railway Company (petitioner) filed its petition with the North Carolina Utilities Commission (Commission) on January 26, 1967, requesting authority to discontinue its agency station at Hildebran, North Carolina, and dismantle and remove the station building. Prior to the filing of the petition it posted notice at the station in accordance with Commission rules stating in effect that within not less than 10 days and more than 20 days it would file such petition. Upon receipt of correspondence indicating possible protest to such request the Commission scheduled the petition for public hearing to be held in the City Hall, in Hickory, North Carolina, for convenience of any interested parties.

No formal protest was filed with the Commission, but petitions in opposition from the Junior Chamber of Commerce, in Hildebran, and other sources were received and made a part of the file.

Hearing was held as scheduled in the City Hall, Hickory, North Carolina, on April 4, 1967. Petitioner was present with witnesses and was represented by counsel. C.C. Hovis, representing Transportation-Communications Employees Union, of Charlotte, North Carolina; Yoder's Food Store, through Ralph Yoder, of Hildebran; and Ernest Yoder, of Hildebran, appeared at the hearing and signed appearance slips as protestants to the granting of the petition.

Petitioner offered evidence through testimony of witnesses and exhibits. Protestants Ralph Yoder and Ernest Yoder testified and presented D.M. Aderholdt as a witness.

From the evidence offered by the testimony of witnesses and the exhibits the Hearing Commissioner makes the following

FINDINGS OF FACT

1. Petitioner is now and has been for many years engaged as a public utility in rendering passenger and freight service to the public by means of rail train and now operates and has operated for many years an agency station

at Hildebran, North Carolina, on its Asheville Division between Hickory and Asheville, approximately 4.1 miles rail distance west of Hickory and approximately 5 miles east of Icard, and is the controlling station for business at the Icard nonagency station. Petitioner, as a public utility, is subject to the jurisdiction of the Commission for the closing of an agency station.

2. For the calendar year of 1965 business handled at the Hildebran station, including that of the governed station of Icard, produced a net contribution to petitioner company in the amount of $7,402. For the year of 1966 the net contribution was $8,280.

3. During the calendar year of 1965, 65 carload shipments were received and 114 carload shipments forwarded, together with 2 LCL shipments received and 138 LCL shipments forwarded at the station. Forty-nine carload shipments were received and none forwarded, together with 2 less carload shipments received and 424 forwarded at the governed station of Icard.

4. For the calendar year of 1966, 87 carload shipments were received and 85 forwarded, together with 6 less carload shipments received and 125 forwarded at the station. Fifty-two carload shipments were received and none forwarded, together with no less carload shipments received and 376 forwarded at the governed station of Icard.

5. The Hildebran station has one agent and is open from 8:00 a.m. to 6:00 p.m., Monday through Friday of each week. The Hickory station, which is to become the governing station of both Hildebran and Icard if Hildebran is closed, has three or more employees with service to the public available on any day in the week.

6. There is no telephone charge between Hildebran and Hickory, and petitioner will accept collect calls at its Hickory station for railroad business.

7. For the most part of LCL business originating at Icard and Hildebran is handled by special arrangement by the shippers with petitioner in that, upon request, petitioner places a car in which the shippers load LCL shipments and petitioner then, upon notice from shipper, moves the car to Hickory where the shipments are processed and shipped.

8. There will be no material difference between the handling of carload shipments at Icard and Hildebran from that which exists at the present time under the agent at Hildebran. The agent at Hickory will simply handle the business instead of the agent at Hildebran.

9. Petitioner experiences difficulty in obtaining station agents.

10. The actual station operating cost at Hildebran for the year 1965 was $7,097. For 1966 it was $7,710.

CONCLUSIONS

Petitioner makes no contention that it is not realizing revenue at the Hildebran station in excess of the total operating expenses attributable to the station. Petitioner does contend that it is experiencing difficulty in obtaining station agents and that it can and will render to the public at Hildebran and Icard the same satisfactory and efficient public service without the agent at Hildebran that it has furnished with the agent there. It contends that there is no greater effort or responsibility on the part of the shipper to call the agent in Hickory than there is to call the agent at Hildebran and that the shipper can have and get the same service by calling the agent at Hickory that it can receive by calling the agent at Hildebran. The shipper loads and the consignee unloads. At most, the agent at Hildebran makes out bills of lading and does routine work at the station, all of which can be done by the present personnel at Hickory and the petitioner can save the actual station operating expenses at Hildebran and at the same time afford the public the same service that it now renders.

One of the interesting questions arising in this case revolves around the fact that the LCL shipments are far in excess of those at any other station which the Commission in recent months has been called upon to discontinue the agency. Careful analysis of this situation reveals, however, that the manner and method of handling of the LCL shipments will not be altered or changed and that the shippers will not be put to any more trouble or inconvenience than now exists. One of the interesting things in this connection is that with the large amount of LCL shipments involved not even one shipper appeared at the hearing and offered any evidence of any kind as to any adverse effect the granting of the petition would have on such shipper or the general public. The record shows no opposition on the part of shippers.

At least one protestant witness and one of the petitioner's witnesses both testified that LCL shippers were finding it more convenient and more expeditious to use over-the-road truck service for the handling of LCL shipments than petitioner can possibly give in this connection.

It is understandable, of course, that citizens of Hildebran dislike to see any decrease in facilities and activities in their community but would rather see these things increase, and they justifiably feel that with the closing of the agency station they have lost an important function in connection with their civic responsibility and activities. However, it does not seem necessary or that it should be required of a public utility that it continue to incur expenses in connection with its operation when, for

all practical purposes, it can give the same service without such expenditure.

The Hearing Commissioner concludes that the petitioner in this instance will be able to render to every segment of the public using its services the same adequate, efficient and satisfactory service without the agent at Hildebran through the agency at Hickory that it is now rendering and has rendered at Hildebran in the past. The Commission concludes that despite the fact that the agency station operation at Hildebran and its governed nonagency point of Icard produces net operating revenue for petitioner that the petitioner can serve the public at these points adequately and efficiently through its agency at Hickory and that public convenience and necessity does not require the continued operation of Hildebran as an agency station.

IT IS, THEREFORE, ORDERED that petitioner be and it is hereby permitted to close its agency station at Hildebran, North Carolina, and transfer all business now handled at Icard and Hildebran to the agency at Hickory as of June 1, 1967.

IT IS FURTHER ORDERED that upon the closing of the agency at Hildebran in accordance with this order that petitioner be and it is authorized at its election to dismantle and remove the station building, but that it shall notify this Commission of the date of the closing of its agency station at Hildebran and also of the date and time of the dismantling and removal of the station building.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of April, 1976.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. R-29, SUB 168

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Southern Railway Company for)
Authority to Close its Agency Station at) CORRECTED
Fletcher, North Carolina) ORDER

HEARD IN: Raleigh, North Carolina, on June 28, 1967

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah (Presiding) and John W. McDevitt

APPEARANCES:

For the Petitioners:

W.T. Joyner, Jr.
Joyner and Howison
Attorneys at Law
P.O. Box 109
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Raleigh, North Carolina 27602

For the Commission Staff:

Edward B. Hipp
General Counsel
North Carolina Utilities Commission
Raleigh, North Carolina 27602

NOAH, COMMISSIONER: Southern Railway Company (herein called Southern or Petitioner) on April 10, 1967, petitioned this Commission for authority to discontinue its agency station at Fletcher, North Carolina, and handle business from its agency station at Asheville. Petitioner, also, requests permission for authority to dismantle and remove the station building at Fletcher.

The Attorney General of North Carolina on June 20, 1967, intervened on behalf of the using and consuming public of North Carolina. His representative, Honorable George A. Goodwyn, Assistant Attorney General, appeared at the hearing; however, as no public witnesses appeared in opposition to the authority sought, Mr. Goodwyn requested permission to withdraw from the proceeding which request was allowed.

Petitioner and the Commission's Staff waived the privilege of filing briefs.

Pursuant to Rule R1-14 Petitioner posted an appropriate public notice of its intention to petition for this relief.

Upon consideration of evidence adduced of record this Commission makes the following

FINDINGS OF FACT

1. Fletcher is an open station agency on Petitioner's Asheville-Charleston-Winston-Salem Division which, in part, extends from Asheville to Spartanburg, South Carolina. Petitioner is a common carrier by rail operating within North Carolina in both interstate and intrastate commerce and as such is subject to the jurisdiction of this Commission.

2. The operation of the non-agency stations of Arden, Brickton and Naples are controlled and governed by Fletcher. Petitioner proposes that Asheville be designated as the

governing or controlling agency for Fletcher, Arden, Brickton and Naples. The rail distance between Fletcher and Asheville is 11.5 miles. Fletcher is located on U.S. Highway No. 25, a hard surfaced highway, over which the distance between Asheville and Fletcher is 12 miles. The population of Fletcher is 1500. Local telephone service as well as Petitioner's private telephone line are available between these points.

3. Petitioner's passenger trains serving Fletcher handle no mail or express. The railroad agent does not represent the Railway Express Agency in the transportation of that company's express shipments.

4. Revenues received for the handling of carload freight at Fletcher declined from $77,543 in the year of 1965, to $48,380 in the year ended March 31, 1967. The direct expenses of operating the agency station at Fletcher increased from $7,233 in 1965, to $7,840 in the year ended March 31, 1967. The total expenses incurred for handling the revenue traffic declined from $52,910 in 1965, to $35,613 in the year ended March 31, 1967. Revenues exceeded expenses $25,947 in 1965, $13,842 in 1966, and $13,490 in the year ended March 31, 1967.

5. Revenues from less-carload traffic handled at Fletcher were only $154 in 1965, $96 in 1966, and $100 in the year ended March 31, 1967. Miscellaneous revenues amounted to $1,160, $490, and $623 in the three years, respectively. Only twenty less-carload shipments were handled in 1965, five such shipments in 1966, and six such shipments in the year ended March 31, 1967.

No change is proposed in the operations for shippers and receivers at Fletcher and its governed stations other than the requirement that orders for cars be handled by telephone and notice of order notify and C.O.D. shipments to be by U.S. Mail. In addition less-carload shipments, if any, will be handled by and through the Asheville agency.

6. Public convenience and necessity do not require the continuance of the agency station at Fletcher and the public interest will be properly served in the handling of traffic to and from Fletcher and the governing non-agency stations through Asheville facilities.

CONCLUSIONS

Sufficient notice was given to the public of Southern's proposal to change the manner of handling freight traffic to and from Fletcher and the non-agency points it governs. Although the Commission received letter-communications on May 11, and June 2, from Concrete Supply & Materials Company and Giant Portland Cement Company at Naples voicing opposition to the proposal and stating that the closing of the Fletcher agency would handicap them or affect them in their operations, and these companies having been advised of

the assignment petition for hearing on June 28, 1967, representatives of these companies failed to appear to protest the relief sought.

Based on the record made in this proceeding we conclude that the continuation of Fletcher as an open station is not supported by public convenience and necessity and that the petition should be granted.

IT IS, THEREFORE, ORDERED That Southern Railway Company be permitted to discontinue its agency station at Fletcher, effective not earlier than September 1, 1967, to handle thereafter its Fletcher business from its agency station at Asheville, and to dismantle and remove the present station building at Fletcher.

IT IS FURTHER ORDERED That Southern notify this Commission the actual date it closes its Fletcher agency station and the date the present station building is dismantled and removed.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. R-5, SUB 233

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Suspension and Investigation of Proposed	) ORDER
Increase in Class Rates and Charges by	) APPROVING
Railway Express Agency, Incorporated,	) PROPOSED
Scheduled to Become Effective May 1, 1967	) RATES

HEARD IN: The Offices of the Commission, Old YMCA Building, Raleigh, North Carolina, on June 6, 1967

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah (presiding), and John W. McDevitt

APPEARANCES:

For the Respondents:

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Simms & Simms
Attorneys at Law
P.O. Box 2776, Raleigh, North Carolina 27602

Robert C. Boozer
Ashmore & Boozer
Attorneys at Law
80 Broad Street, N.W.
Atlanta, Georgia 30303

For the Commission Staff:

Edward B. Hipp
General Counsel
Raleigh, North Carolina 27602

No Protestants.

BY THE COMMISSION: On March 28, 1967, Railway Express Agency, Incorporated (Respondent or REA), filed a special title page to its Class Tariff No. 18-H, designating same as N.C.U.C. No. 461, by which it proposed to make effective May 1, 1967, on express traffic moving in North Carolina intrastate commerce the increases in first and second class rates and charges that under the provisions of named tariff became effective on interstate traffic April 3, 1967.

The Commission, by order of April 19, 1967, suspended and deferred the application of this publication to and including August 28, 1967, instituted an investigation with view of determining the lawfulness thereof, and assigned the matter for hearing in the offices of the Commission on June 6, 1967. Under the provisions of G.S. 62-134 the burden of proving that the proposed increase in rates and charges, and practices in connection therewith, is just, reasonable and otherwise lawful was placed on the Respondent.

An appropriate supplement was filed on April 21, 1967, in compliance with the order of suspension and investigation.

There were no protests filed against the proposal and no one appeared at the hearing in opposition to the proposed increase.

Respondent was represented by both witnesses and counsel. The Commission's staff, represented by the General Counsel of the Commission, intervened.

Class Tariff No. 18-H became effective on interstate traffic on April 3, 1967, and according to testimony and evidence presented by Respondent's Regional Marketing Manager it has also been allowed to become effective on intrastate traffic within 41 or 42 of the States, including all of the southeastern states, except Florida.

The adjustment that Respondent is here seeking to make effective on North Carolina intrastate commerce would have the effect of increasing the charges on all shipments moving on basis of first and second class rates by fifty (50) cents over presently applicable rates and charges, except that the proposed rates applying in cents per 100 pounds on shipments

weighing over 100 pounds are increased twenty (20) cents per hundredweight.

According to the undisputed testimony and evidence presented by Respondent's witness, the first and second class rates in question are applied on shipments consisting largely of occasional movements of electronic tubes, including X-ray tubes, exposed film and prints, flourescent and incandescent lamps, fur and fur garments, hand guns, jewelry, including watches, lamps and lamp shades, men's hats and millinery, individual to individual shipments, including personal effects and luggage, money and value shipments, which are forwarded by express because of the convenience and availability of the service.

The witness testified that much of the involved traffic consists of residential business, either picked up, delivered, or both, at individual homes outside of business areas and that the cost of performing such service is high in relation to its traffic handled in so-called downtown or commercial areas.

The evidence and testimony of Respondent's witnesses also shows that its class rated traffic moving in North Carolina intrastate commerce is approximately 12.3 percent of its total traffic handlings intrastate in the State. The witness estimates that the increase herein proposed will only produce added annual revenues of approximately $7,346.

The witness testified that the cost to his company of performing its transportation service has been steadily increasing and that increased costs have occurred in all major categories. The witness maintained that Respondent has done everything possible to avoid increasing its rates through increased efficiency and by strenuous efforts to attract new business but contends that the substantial nature of increased costs has made the prposed increase in its first and second class rates mandatory.

The cost witness testified that Respondent operates over the lines of carriers having a total mileage of 370,035, of which approximately 8,401 are in North Carolina; that costs are continuing to increase sharply on all fronts, including wages, vacations, holidays and other benefits under recently enacted contracts with crafts representing the employees; Railroad Retirement and unemployment benefits; rents; claim payments on constantly increasing values; insurance rates; materials and supplies; taxes, other than payroll, and like items.

The witness submitted a formula for separating its interstate and intrastate operations. Under the formula the witness testified that its payroll costs in the State of North Carolina for the year ended January 31, 1967, were developed by apportioning train employees' payroll to this State on basis of the relationship which the miles in North Carolina, on the respective runs, bore to the total miles on

the run. Of the total net compensation to train employees, i.e., $216,460 the North Carolina proportion is $99,446. The witness also testified that the total net compensation of North Carolina employees, including that of train employees under the formula was $3,129,091 and estimated that an additional cost of $380,406 would have been incurred if the Labor Agreement executed December 16, 1966, had been in effect for the year ended January 31, 1967.

A four (4) percent sampling of North Carolina intrastate surface express traffic for the month of February, 1967, shows that under present North Carolina intrastate rates, the average charge per shipment is $3.9446 and, under the proposed rates would be $4.0062, an overall increase of 06.16 cents per shipment or approximately 1.56 percent.

The witness testified concerning an estimate made of the number of interstate and intrastate shipment handlings in the State for the year ended January 31, 1967, segregated as to the number of interstate shipments forwarded, the number received, and the number of intrastate shipment handlings. Shipment handlings are distinguished from shipments in that an interstate shipment has only one handling in the State whereas an intrastate shipment has two handlings in the State, one at origin and one at destination. The total estimated shipment handlings were 2,984,715 of which 2,738,461 or 91.75% were interstate in character and 246,254 or 8.25% were intrastate. The percentages thus developed were used to apportion the annual operating expenses and express taxes in the State to North Carolina intrastate operations.

The net amount of payroll in North Carolina during the twelve-month period ended January 31, 1967, aggregated $3,509,497 and that amount apportioned on basis of shipment handlings (Interstate 91.75% - Intrastate 08.25%) results in interstate payroll cost in the amount of $3,219,963 and intrastate of $289,534. The total compensation paid to Commission Agents during the period was $334,888 and apportioned in the manner described results in commissions of $307,260 being attributable to interstate and $27,628 to intrastate traffic. The estimated additional compensation to Commission Agents as a result of the proposed increased rates is $115. The amount attributed to administration and general payroll costs of $28,555 represents nine (9) percent of the total of the annual payroll and the amount paid to Commission Agents. These amounts total $345,832 representing the total payroll and commission costs attributed to operations within North Carolina.

Approximately 76.18 percent of the total express operating expenses, exclusive of taxes, is represented by payroll and commission costs. The remaining 23.82 percent represents operating expenses, other than payroll, including loss and damage, casualties, rents, maintenance and depreciation of property and equipment, supplies, drayage and general expenses. These costs, in the sum of $108,135 were

determined by dividing the estimated total payroll and commission costs attributable to intrastate operations totaling $345,832 by 76.18% and multiplying the result by 100 percent to develop the total operating expenses, exclusive of taxes, then multiplying that sum by 23.82 percent.

The total operating expenses of Respondent exclusive of taxes, allocated to North Carolina intrastate operations under the described formula amounts to $453,967. After deducting estimated intrastate operating expenses and express taxes of $482,494, and line haul costs of $122,995, totaling $605,489, from estimated intrastate LCL surface express revenue for the year ended January 31, 1967, of $473,971, there was a deficit of $131,518. The additional revenue estimated to accrue to Respondent under the suspended tariff would amount to $7,346. This estimate, when deducted from the deficit of $131,518, reduces the deficit to $124,172.

The record shows that it will be the purpose of Respondent to file with this Commission at an early date, supplements to its various tariffs for the purpose of increasing all of its rates and charges.

The Staff introduced several exhibits designed to show the effect of the proposed increases on express traffic moving between representative points in North Carolina.

Upon consideration of the evidence and the records as a whole, the Commission makes the following

FINDINGS OF FACT

1. Railway Express Agency, Incorporated, is a common carrier engaged in the transportation of property between points in North Carolina in express service and is subject to the jurisdiction of this Commission.

2. Respondent utilizes the facilities of the rail carriers, motor common carriers of property, and its own vehicles in the performance of its express service between points in North Carolina.

3. REA is engaged in the transportation not only of general commodities but also of many special items such as flowers, live animals, human remains, fresh seafood, money and articles of value not handled by other common carriers. Respondent has rendered such service for many years.

4. Respondent's rates and charges for the transportation of property in express service are peculiar to its operations and are based on and related to the costs of performing the service.

5. There has been a steady and continuing increase in its operating costs which has, from time to time,

necessitated upward revisions in its rates and charges for the transportation of practically all commodities moving in express service. Subsequent to the increases authorized in its rates effective March 3, 1966, Respondent has been confronted with additional increases in operating costs which it has been unable to absorb by increased operating efficiency and which have resulted in insufficient revenues to meet such operating costs and to enable it to continue in the performance of an efficient and economical service.

6. The proposed increases in rates and charges will reduce its deficit somewhat, but will fall far short of eliminating it entirely.

7. Respondent's rates and operations are affected with the public interest.

8. The proposed rates and charges are just and reasonable and are not the means of creating unjust discrimination, undue preference or prejudice or unfair and destructive competitive practices between shippers, receivers, commodities or localities in the State of North Carolina. Such proposed rates and charges are consistent with the policy declared in G.S. 62-2.

CONCLUSIONS

Respondent has carried the burden of justifying the proposed increase in rates that is under suspension by a showing that its entire operation is being performed, using the formula submitted, at a deficit, based on estimated annual results of intrastate operations in North Carolina for the year ended January 31, 1967, of $131,518, and that the increase proposed in the tariff publication under suspension would only reduce the deficit to $124,172. We, therefore, conclude that the suspended rates are just and reasonable and should be allowed to become effective.

Upon consideration of the evidence and the record as a whole, the Commission is of the opinion that its order of April 19, 1967, should be vacated and the proceeding discontinued.

IT IS, THEREFORE, ORDERED That the order of the Commission dated April 19, 1967, suspending and deferring the application of tariff schedules hereinbefore named and described, filed by Railway Express Agency, Incorporated, proposing increases in its first and second class rates and charges and scheduled to become effective May 1, 1967, be, and the same hereby is, vacated and the proceeding discontinued.

IT IS, THEREFORE, ORDERED That the suspended tariff schedule, namely, REA Class Tariff 18-H and special title page thereto bearing N.C.U.C. No. 461, be, and the same hereby is, allowed to become effective on five (5) days' notice by the filing of an appropriate tariff schedule in

accordance with the Commission's rules governing the construction and filing of tariffs.

ISSUED BY ORDER OF THE COMMISSION.
This the 10th day of July, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. WU-60

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of The Western Union Telegraph) SECOND
Company for Authority to Issue and Sell) SUPPLEMENTAL
Securities Under G.S. 62-161) ORDER

By an Order of this Commission entered on August 5, 1966, The Western Union Telegraph Company (Applicant) was authorized to issue up to, but not exceeding, $100,000,000 of its unsecured Notes maturing December 31, 1969, under and pursuant to a Loan Agreement and was conditionally authorized to issue and sell, to underwriters, up to but not exceeding $75,000,000 of its unsecured Debentures. On November 18, 1966, Applicant filed a Supplemental Application with respect to said Debentures, and this Commission entered an Order on December 6, 1966, confirming Applicant's authority to issue said Debentures in accordance with the Original Application as modified by the Supplemental Application.

On June 8, 1967, Applicant filed a Supplementary Application with respect to the Notes for a Second Supplementary Order.

APPLICANT represents that the Loan Agreement dated as of August 1, 1966, between it and sixteen banks has been modified by an Agreement dated as of April 1, 1967, to extend to June 28, 1968, the expiration of the period during which borrowings can be made and to permit up to $20,000,000 of the borrowings to be represented by short-term notes due March 29, 1968. These modifications, and ones incidental thereto, were made in order to enable Applicant to take full advantage of the amount of the credit offered and to afford it increased flexibility in its borrowings.

THEREFORE, IT IS ORDERED That The Western Union Telegraph Company be and hereby is authorized, empowered and permitted under the terms and conditions set forth in the Application, as supplemented by the Supplementary Application for Second Supplementary Order, to issue up to, but not exceeding $100,000,000 of its unsecured Notes under and pursuant to the Loan Agreement, as modified by the Agreement dated as of April 1, 1967, said Notes to bear interest from date of issue to and including July 31, 1967, at the prime

commercial rate of The Chase Manhattan Bank (National Association) from time to time in effect, and after July 31, 1967, at 1/4 of 1% above such prime commercial rate from time to time in effect, said Notes to mature December 31, 1969, and said $100,000,000 to be reduced by whatever amount Applicant may borrow against short-term notes maturing March 29, 1968.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of June, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. WU-65

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of The Western Union Telegraph Company for Authority to Issue and Sell Securities Under G.S. 62-161	)))	ORDER

This cause comes before the Commission upon an application of The Western Union Telegraph Company (Petitioner), filed with the Commission on March 20, 1967, through its Counsel, Thomas A. Banks, Raleigh, North Carolina, wherein authority of the Commission is sought as follows:

1. To issue and sell its_____% Cumulative Preferred Shares, $100 par value;

2. To issue and sell its_____% Convertible Cumulative Second Preferred Shares, $100 par value; and

3. To issue its Common Shares, $2.50 par value, upon conversion of said_____% Convertible Cumulative Second Preferred Shares.

PETITIONER represents that it is a corporation duly organized and existing under the laws of the State of New York with its principal office at No. 60 Hudson Street, in the City and State of New York, and that it is engaged in the business of offering communications services by telegraph and radio beam throughout the United States.

PETITIONER further represents that it now proposes to issue and sell a third series of its Cumulative Preferred Shares (the "New Senior Preferred") on April 18, 1967 (or on such later date as the Registration Statement with the Securities and Exchange Commission shall become effective) to institutional investors pursuant to contracts calling for the delivery of such shares on July 20, 1967 and, to the extent that all of such shares are not so contracted for, to

an underwriting group for immediate resale to the public, pursuant to an underwriting agreement (a proof of which was filed as Exhibit 8 to the Application).

PETITIONER further represents that the following terms of the New Senior Preferred will be determined shortly before the time of issue: (1) the dividend rate, but such rate will in no event exceed 6-1/2%; (2) the price at which the New Senior Preferred will be redeemable through the operation of the sinking fund; and (3) the prices at which the New Senior Preferred will be redeemable at Petitioner's option.

PETITIONER further represents that it now proposes to issue and sell a first, convertible series of its Cumulative Second Preferred Shares (the "Convertible Second Preferred") at the rate of 1 share for each 30 shares of Common held on April 18, 1967 (or on such later date as the Registration Statement with the Securities and Exchange Commission shall become effective).

PETITIONER further represents that the Convertible Second Preferred Shares will be sold to an underwriting group for immediate resale to the public, to the extent that they are not subscribed for by holders of Petitioner's Common Shares by means of Warrants, pursuant to the terms of an underwriting agreement (a proof of which was filed as Exhibit 8 to the Application).

PETITIONER further represents that the following terms of the Convertible Second Preferred will be determined shortly before the time the Warrants are issued to the holders of Petitioner's Common Shares: (1) the dividend rate, but such rate will in no event exceed 5-1/2%; (2) the prices at which the Convertible Second Preferred will be redeemable on or after July 1, 1969; and (3) the price per share of Common at which the Convertible Second Preferred (taken at its par value of $100 per share) will be convertible into Common.

PETITIONER further represents that it proposes to issue such number of Common Shares as may be required upon the conversion of its Convertible Second Preferred Shares.

PETITIONER further represents that the estimated expenses, which include filing, exchange listing, auditing, legal, printing, and other fees and expenses, total $92,000 in the case of the issue and sale of the New Senior Preferred and $270,000 in the case of the Convertible Second Preferred.

PETITIONER further represents that the proceeds from the issue and sale of the New Senior Preferred and the Convertible Second Preferred will be used for acquisitions of property, and the construction, completion, extension and improvement of facilities in connection with the plant expansion program, or to reimburse Petitioner's treasury for monies actually expended therefor. None of the monies so expended will have been secured by or obtained from the

issue of stock or stock certificates, or bonds, notes or other evidences of indebtedness of the Petitioner.

PETITIONER further represents that its Board of Directors has approved the proposed financing, and that it will seek the approval of the New York Public Service Commission to the amendment to its Certificate of Incorporation to effect the proposed change in Petitioner's authorized equity capital and to establish the New Senior Preferred and the Convertible Second Preferred.

From a review and study of the application, its supporting data, and other information contained in the Commission's files, the Commission is of the opinion and so finds that the transactions herein proposed are:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

THEREFORE, IT IS ORDERED That The Western Union Telegraph Company be and it is hereby authorized, empowered and permitted under the terms and conditions set forth in the application:

1. To issue and sell 250,000 shares of its_____% Cumulative Preferred Shares at a price of not less than $100 per share;

2. To issue and sell not more than 252,087 shares of its_____% Convertible Cumulative Second Preferred Shares at a price of not less than $100 per share;

3. To issue such number of its Common Shares as may be required upon the conversion of said_____% Convertible Cumulative Second Preferred Shares; and

4. To enter into an Underwriting Agreement pursuant to the terms of which the New Senior Preferred Shares and the Convertible Second Preferred will be sold.

IT IS FURTHER ORDERED That the proceeds from the sale of the New Senior Preferred and the Convertible Second Preferred shall be devoted to the purposes set forth in the Application.

IT IS FURTHER ORDERED That the Petitioner supply a copy of the Underwriting Agreement relating to the New Senior

Preferred and the Convertible Second Preferred when such copy is available in final form.

IT IS FURTHER ORDERED That the Petitioner, within a period of thirty (30) days following the completion of the transactions authorized herein, shall file with the Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. P-81, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Mobile Radiotelephone Corporation for a Certificate of Convenience and Necessity to Operate as a Common Carrier in Intrastate Communications Providing Mobile Radio Service at Kinston, North Carolina) ORDER DENYING APPLICATION

HEARD IN: The offices of the Commission, Raleigh, North Carolina, on October 25, 1966

BEFORE: Chairman Harry T. Westcott and Commissioners Clarence H. Noah (presiding) and John W. McDevitt

APPEARANCES:

For the Applicant:

R. Mayne Albright
Albright, Parker and Sink
Attorneys at Law
P.O. Box 1206, Raleigh, North Carolina

For Protestant-Intervenor:

Herbert H. Taylor, Jr.
Taylor & Brinson
Attorneys at Law
P.O. Box 308, Tarboro, North Carolina
For: Carolina Telephone & Telegraph Company

For Intervenor:

James H. Kimzey
Joyner & Howison

Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina
For: Southern Bell Telephone & Telegraph Company

Harvey L. Cosper, Attorney at Law
808 Jefferson Standard Building
Charlotte, North Carolina
For: Southern Bell Telephone & Telegraph Company

Robert S. Hudspeth, Attorney at Law
1245 Hurt Building
Atlanta, Georgia
For: Southern Bell Telephone & Telegraph Company

For the Commission Staff:

Edward B. Hipp
General Counsel
Raleigh, North Carolina

NOAH, COMMISSIONER: The application of Mobile Radio-telephone Corporation, Kinston, North Carolina (applicant), filed with the Commission on September 9, 1966, was set for hearing on October 25, 1966. Notice was given to the public in the September 29 and October 6, 1966, issues of the Kinston Daily Free Press published in the City of Kinston, County of Lenoir, North Carolina, which has general circulation in the area proposed to be served by applicant.

Applicant seeks a Certificate of Public Convenience and Necessity to operate as a common carrier in intrastate communications providing a radio-mobile service, paging service, message relay and retention service through facilities consisting of a base station, antenna (at Grifton), central call station, dispatch stations, and mobile units and paging units, on channel frequencies assigned by the Federal Communications Commission, including, also, as an essential part of its service, message retention and relay services through an answering serving in connection with the dispatch stations. The certificate applied for would permit applicant to operate in the area of Kinston and a radius of approximately 30 miles from its base station, subject to such limitations as may be imposed by this Commission or by the Federal Communications Commission.

Carolina Telephone & Telegraph Company (Carolina), with its principal office in Tarboro, North Carolina, rendering a general communication service in eastern North Carolina and holding a Certificate of Convenience and Necessity issued by this Commission to convey or transmit messages or communications by telephone or telegraph, or any other means of transmitting, where such service is offered to the public

for compensation, on October 14, 1966, filed a protest against the granting of the authority sought by applicant and petitioned for leave to intervene in this proceeding.

Southern Bell Telephone & Telegraph Company (Southern Bell), on October 14, 1966, petitioned for leave to intervene in this proceeding. Although Southern Bell does not operate in the territory proposed to be served by applicant, it contends that it has an interest in this proceeding which arises out of the fact that the determination of the legal issues possibly arising in this cause, would establish doctrines of law which will be applicable throughout the State of North Carolina and will be binding upon and govern Southern Bell in the conduct of its business.

Accordingly, this Commission, by order issued October 17, 1966, granted leave to Carolina and Southern Bell to intervene in the proceeding.

In addition to authority sought, applicant proposed that if a contract for interconnection could be agreed upon between the existing land-line telephone company and itself, applicant's call station, through such interconnection, would connect directly to the telephone system for local and long distance service and any telephone subscriber, either local or long distance, would be connected to any units of applicant's customers. The application was amended at the hearing to delete this proposal and strike it from the application inasmuch as interconnection was not agreed upon between applicant and Carolina.

The parties stipulated:

(1) That applicant is a North Carolina corporation duly organized under the laws of the State and authorized under its charter for the type of service proposed in North Carolina,

(2) That applicant holds a current and valid license from the Federal Communications Commission as a radio common carrier with control point at Kinston and transmitter at Grifton, North Carolina, and that it has filed with the Utilities Commission its tariff of rates, charges, rules and regulations and practices in connection therewith,

(3) That Carolina is duly authorized and holds a certificate of convenience and necessity to operate a general telephone business in the area of North Carolina which specifically covers the Kinston area, and that it is properly authorized by the Utilities Commission to operate a general telephone business, and

(4) That Carolina holds a construction permit and a license from the Federal Communications Commission as a mobile radio telephone carrier.

The Commission's staff was represented by counsel and participated in this proceeding but offered no evidence.

In addition to applicant's secretary-treasurer who described the operations and proposed services to be rendered, its president, who outlined certain other phases of the corporation, including an area of approximately 25 to 30 miles around Kinston it would be possible to serve; an operator of four common carrier mobile telephone stations and a telephone answering service and also a member of the Board of Directors of the National Association of Radio-Telephone Systems and president of the Tarheel Association of Radio-Telephone Systems, who described operations throughout the country of services similar to those applied for by applicant; the following public witnesses: Harper Howard Sutton, Route 2, Kinston, a certificated common carrier of petroleum products, serving an area within 100 miles of Wilmington; Norwood L. Mills, Route 1, Goldsboro, a logging contractor, whose operations are conducted around Greenville, Plymouth, Washington; Leon Deans, of Kinston, an operator of an airport limousine service between Kinston, Jacksonville, Camp LeJeune and Camp Geiger; and Paul Ellis, Bayboro, engaged in contract work in two-way radio with most shipyards, fishing fleets, highway patrol, and the Highway Commission, in the area between Wilmington and Manteo, including Craven, Pamlico and Carteret Counties, testified in support of applicant.

The public witnesses who are subscribers to applicant's service testified that they require the proposed service which is now available for distances as far as 75 miles extending southward and eastward from Kinston and that a service confined to an area of 25 to 30 miles in that direction would not be useful.

Carolina protested the granting of the application contending that it has offered the type of service proposed by applicant in its Kinston exchange since June, 1965, and has developed a long-range plan forecasting the need for new systems at strategic locations so that it can eventually offer mobile telephone service on practically a company-wide basis. Under this plan, a mobile telephone subscriber could use the service at most of the major cities and towns in eastern North Carolina. It has authority from the Federal Communications Commission to construct a domestic public land mobile radio service with call sign KIY788, and a transmitter at 503 North Queen Street, Kinston, to serve as many as 30 mobile units. Carolina's witness testified that its mobile telephone service in Kinston will be available for use by mobile telephone subscribers to and from other exchanges, and that this service would not be provided by applicant. If subscribers choose to do so, their mobile telephone service may be answered by the secretarial answering service at Kinston.

Carolina does not propose to relay messages nor to offer paging service or call service but stands ready, willing and

able to do so if there is a demand for it. Neither does Carolina have any immediate plans to establish dispatch points or dispatch stations. Both dial and manual telephones are offered, the latter being made available by use of a push button.

Carolina guarantees approximately 100 per cent coverage within at least a radius of 20 miles of Kinston, about 80 per cent in a 25-mile radius and 50 per cent in a 30-mile radius. Its service would not reach points beyond the latter limit. The public witnesses who testified for applicant and who require coverage beyond 30 miles would not be offered coverage by Carolina except upon approval of the Federal Communications Commission to increase the height of its antenna.

A subscriber of Carolina needs no dispatch point since calls can be made from any telephone to any mobile station.

Carolina asserts it is in position to offer all radio common carrier service to the exclusion of others offering a similar service in competition with it.

The antennas of applicant and protestant Carolina are, respectively, 547 feet and 200 feet above sea level. The low antenna is the principal reason Carolina does not have as wide a range of service as that proposed by applicant even though the certificate applicant seeks, if granted, would authorize service within a radius of 30 miles of Kinston.

Upon consideration of the evidence adduced of record and the briefs filed by parties, the Commission makes the following

FINDINGS OF FACT

1. Mobile Radiotelephone Corporation, Kinston, North Carolina, is a North Carolina corporation, authorized under the laws of the State of North Carolina to operate as a common carrier in intrastate communications providing a mobile radio service, paging service and message relay and retention service. An essential part of its message retention and relay service is provided through an answering service in connection with the dispatch station. The service proposed classifies applicant as a public utility conveying or transmitting messages or communications by telephone or telegraph, or any other means of transmission, where such service is offered to the public for compensation, pursuant to G.S. 62-3(23)a.b. This service, when authorized, by a Certificate of Public Convenience and Necessity is subject to the jurisdiction of the Utilities Commission.

2. Applicant offers service to the public within the meaning of G.S. 62-3(23)a.b. and is fit, capable and financially able to provide the service it proposes. Public

convenience and necessity justifies, or reasonably will justify, the service proposed by applicant in the area of Kinston, North Carolina, and a radius of approximately 30 miles from its base station.

3. Carolina Telephone & Telegraph Company, protestant, is a North Carolina corporation and has a certificate to render a general telephone business and mobile radio telephone service in its territory including Kinston and area and offers mobile radio telephone service to the public requiring the same.

CONCLUSIONS

Applicant, Mobile Radiotelephone Corporation, on November 2, 1964, filed an application with this Commission seeking a Certificate of Public Convenience and Necessity to operate as a common carrier in intrastate communications providing mobile radio telephone service, with interconnections with existing telephone service, to serve the area in and around the City of Kinston, Lenoir County, North Carolina. Applicant sought, also, an order from the Commission directing Carolina, which operates the land-line telephone service throughout the area, to interconnect its telephone system with this system of applicant. After hearing, the Commission on May 21, 1965, granted the requested Certificate of Public Convenience and Necessity and ordered Carolina to interconnect the facilities of applicant with Carolina's land-line telephone system. Carolina appealed to the Superior Court of Lenoir County. That Court reversed the order of the Commission. Applicant appealed to the North Carolina Supreme Court.

The Opinion of the Supreme Court written by Justice Lake reported at 267 N.C. 257 affirmed the Superior Court.

In the instant case, as in that proceeding, Carolina stated that it is ready, able and willing to provide a mobile telephone service in the Kinston area but the service it proposes is not identical with, nor the same type of service, as proposed by applicant. Justice Lake said that the two services need not be identical in every respect in order to give the utility already serving the area the prior right; that the basis for the requirement of a Certificate of Public Convenience and Necessity, as a prerequisite of the right to service, is the adoption, by the General Assembly, of the policy that, nothing else appearing, the public is better served by a regulated monopoly than by competing suppliers of the service; that the requirement of such a certificate is not an absolute prohibition of competition between public utilities rendering the same service; and that there is inherent in this requirement the concept that, once a certificate is granted which authorizes the holder to render the proposed service within the geographical area in question, a certificate will not be granted to a competitor in the absence of a showing that the

utility in the field is not rendering and cannot or will not render the specific service in question.

In McFayden v. Public Utilities Consolidated Corp., 50 Idaho 651, 299 P 671, Justice Lake quoted the Court as saying:

"If the new service offered has no advantage over the old from the public viewpoint, other than mere competition under similar basic costs, then the convenience and necessity for it, under the public utility law, would be wanting, and the utility in the field would be entitled to protection against duplication and unwarranted competition."

And in Chicago and West Towns Rys. v. Illinois Commerce Commission, 383 Ill. 20, 48 NE 2d 320, the Supreme Court of Illinois said:

"In our opinion the foregoing cases conclusively establish the right of appellants to have an opportunity as a regulated monopoly to render whatever service convenience and necessity may require, and it is only when it has been demonstrated that it is unable either from financial or other reasons to properly serve the public that a competing carrier will be allowed to invade the field."

In our 1964 case, applicant requested that Carolina be required to interconnect its land-line facilities with applicant's radio communications system. In the instant application, applicant being unable to contract with Carolina for an interconnection, there is no request for an order requiring such interconnection. However, Justice Lake continued:

"Even if the present record were sufficient to support the order granting the Applicant a certificate of public convenience and necessity 'to act as a common carrier of communications providing mobile radio service,' the Commission had no statutory authority to require Carolina to interconnect the Applicant's radio communications systems with Carolina's land telephone system. G.S. 62-44 provides:

> 'The Commission may, *** require any two or more telephone or telegraph utilities to establish and maintain through lines within the State between two or more localities, which cannot be communicated with or reached by the lines of either utility alone, where the lines or wires of such utilities form a continuous line of communication, or could be made to do so by the construction and maintenance of suitable connections or the joint use of equipment, or the transfer of messages at common points.' [Emphasis added.]"

Also, Justice Lake said:

"The power to require the proprietor of a business to interconnect its facilities with those of a competitor is a drastic power. Statutes conferring it should not be extended beyond their plain meaning. G.S. 62-44 authorizes the Commission to require a connection of the lines of two telephone companies, but only when they serve localities which cannot be communicated with by the lines of one of them alone. This statute may not reasonably be extended by construction to authorize the Commission to compel a telephone company to interconnect its system with the system of a radio company serving the identical area which the telephone company, itself, serves or desires to serve.

"The Applicant testified that his proposed radio communication system, between his base radio station and the automobiles of his subscribers, cannot operate successfully of itself and he does not propose to embark upon a service so limited. The order of the Commission requires Carolina to interconnect its system with a competitor in order to enable that competitor to take from Carolina patronage it desires and is permitted to serve under its own certificate. There is no provision in Chapter 62 of the General Statutes which requires, or authorizes the Commission to require, a utility, with large investments in its own plant and facilities, to permit interconnection with such plant and facilities by a competitor in order to increase the competitor's opportunity to take away its customers or prospective customers. The order requiring interconnection was beyond the statutory authority of the Commission, and the superior court properly sustained Carolina's Exception No. 16 to the order of the Commission."

We conclude that Carolina, having a certificate to render a mobile radio service in the Kinston area, has arranged to provide such service and is ready, willing and able to render it, should be permitted to offer it to the public, and that no competitor should be authorized by a Certificate of Public Convenience and Necessity to render such service unless, after Carolina is given the opportunity to render it, it is unable to do so.

We conclude further, that there is a public need for applicant's proposal to operate mobile radio services at Kinston which are similar in some respects, although not identical, to those offered by Carolina.

In Docket No. P-87, application of Two-Way Radio Service, Inc., Albemarle, North Carolina, decided October 20, 1966, a proceeding similar to the instant case, except Two-Way Radio also applied for interconnection with existing telephone service, the Commission, in denying the application, concluded that we are bound by the Supreme Court decision in State v. Telegraph Company, supra., as we interpret it and

denied the application for a Certificate of Public Convenience and Necessity. We conclude and hold in the instant proceeding that we are bound by that decision as we interpret it and that this application for a Certificate of Public Convenience and Necessity must be denied as a matter of law.

IT IS, THEREFORE, ORDERED That the application in this docket be, and the same hereby is, disapproved and denied, and that these proceedings be, and they hereby are, terminated and this docket closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of April, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Katherine M. Peele, Deputy Clerk

DOCKET NO. P-81, SUB 2

WORTHINGTON, COMMISSIONER, DISSENTING: I have heretofore stated on several occasions that in my opinion mobile radio communications systems as developed in North Carolina are not such as to merit regulation and supervision by this Commission. Nothing contained in this dissent should be construed as a retraction from that position.

I did not participate in the hearing in this matter. I have not read the transcript of evidence. I assume, for the purpose of this dissent, that the Hearing Division found public convenience and necessity for the service sought by the applicant on competent, material and substantial evidence. Having so found, I disagree with the Hearing Division's order denying applicant the authority sought. It is my understanding from the order issued by the Division in this matter that a certificate of public convenience and necessity was denied soley on the basis of the fact that the opinion of the Court in 267 N.C., at page 257, our Docket No. P-81, Sub 1, denies the right to grant such certificate. I disagree with any such holding for the reasons set forth fully in my dissent in Docket No. P-81, Sub 1, and here reiterate and reaffirm what I said with respect thereto in that instance.

I do not believe that the Court held or intended to hold that citizens of North Carolina, having been granted a license by the Federal Communications Commission authorizing the rendering of mobile radio communications service within a certain area and over a certain channel or wave length, which channel or wave length is not available to anyone else in such territory, are denied the right to use that license and operate over that channel or wave length simply because a land-line telephone company, which may hold a license authorizing mobile telephone service over a different channel or wave length in the same area, when there is no competition as to services between the two different

channels or wave lengths, has the right to engage in mobile telephone service.

The Federal Communications Commission actually issues to the land-line telephone company channels or wave lengths for mobile telephone operations and it also issues to mobile radio communications companies different channels or wave lengths. One does not interfere with the other. The mobile telephone customer is limited to his wave length or channel just as the mobile radio communications customer is limited to his channel or wave length.

The Federal Communications Commission actually issues the telephone company a license to operate over one channel or one wave length and the mobile radio communications operator a license to operate over a different channel or wave length, and there is actually no competition between the two channels or wave lengths.

If the Court, by its opinion, intended to and did foreclose to all citizens of this State the right to engage in mobile radio communications service under a license granting a wave length and channel from the Federal Communications Commission simply because a telephone company may offer mobile telephone service in the same area over a different channel and different wave length, then it successfully denies the holder of such license the right to pursue his calling and carry on his trade in order to make a living for himself and his family. At the same time, such holding successfully denies to all the citizens of this State, who find themselves, in connection with their work, in need of the mobile radio communications service and who have expressed themselves before this Commission as to their needs and requirements for this service in preference to mobile telephone service, the right to have the service they need to enable them to pursue their calling, follow their trades and make a living for themselves and their families.

There is no finding in the order of the Division that there is any unfair, oppressive or injurious competition to the telephone company through the operation of the mobile radio communications service. The order is completely silent as to any suggestion of competition and I assume that the record is completely devoid of any evidence of any adverse or injurious competition.

I do not believe that regulation of public utilities, as provided for by the legislature, was enacted with the purpose in mind that regulation should constitute an injurious and destructive bottleneck in the progress and development of communications services in this State. The action of the Commission in this instance denies to the applicant the right to pursue its trade and denies to those citizens of the State who testified to their need for service the right to have such service in order to follow their trades. The result is that regulation, within itself, serves as a bottleneck, for all practical purposes, to

impede and destroy the basic right of every citizen to have the service he needs and relegates the citizenship to a service it cannot use, thereby destroying property rights as well as the privilege to have and enjoy the needed service with which to make a living.

It is now quite evident that if the action of the Division in this instance is justified by the Supreme Court opinion, then certainly the legislature should meet this situation with proper legislation by either removing the mobile radio communications service from the public utility field or by requiring this Commission to issue a certificate upon a finding of public convenience and necessity.

I am in complete disagreement with the action here taken and dissent thereto as I did in Docket No. P-81, Sub 1.

Sam O. Worthington, Commissioner

DOCKET NO. P-92

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Ra-Tel Company, Inc., 151 East Anderson Street, Selma, North Carolina, for certificate of public convenience and necessity to operate as a common carrier in intrastate communications providing mobile radio service. (Control Station: Selma, North Carolina)	ORDER GRANTING APPLICATION

HEARD IN: The Commission Hearing Room, Old YMCA Building, Raleigh, North Carolina, on Tuesday, October 3, 1967, at 10:00 a.m.

BEFORE: Commissioners John W. McDevitt, M. Alexander Biggs, Jr., and Thomas R. Eller, Jr. (presiding)

APPEARANCES:

For the Applicant:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina

For the Intervenor, Southern Bell Telephone and Telegraph Company:

R.C. Howison, Jr.
Joyner & Howison
Attorneys at Law

Wachovia Building
Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
P.O. Box 991, Raleigh, North Carolina

ELLER, COMMISSIONER: These proceedings arise and were held, after public notice and with parties present, as captioned.

The material, substantial, and competent evidence justifies the following

FINDINGS OF FACT

1. Applicant, Ra-Tel Company, Inc., is a duly created and existing North Carolina corporation with headquarters in Selma, Johnston County, North Carolina. It is licensed by the Federal Communications Commission to provide, and has been providing, domestic public land mobile radio service from a control station located at 151 East Anderson Street, Selma, North Carolina, latitude 35° 32' 15" North, longitude 78° 17' 00" West, and a radio base station, call sign KIY 777, located on North Carolina Highway 42, seven miles North of Selma, North Carolina, latitude 35° 39' 16" North and longitude 78° 17' 52" West, with a primary service area of a radius of twenty-five (25) air miles from the base station antenna and has an authorization from the Federal Communications Commission to serve a maximum of seventy (70) mobile units and a maximum of seven (7) dispatch stations.

2. Applicant presently has two (2) subscribers, two (2) dispatch stations and three (3) mobile units on its system with definite interest expressed in the service by at least two (2) additional business firms.

3. Applicant's present service is without interconnection with the landline telephone company serving the area. Applicant desires interconnection when feasible and upon agreement by the telephone company.

4. The service provided by Ra-Tel Company, Inc., involves the placing of mobile radio units, which operate on the channel frequency(s) assigned by the Federal Communications Commission, in the vehicle or vehicles of its customers. A base station is provided and calls from the customer will go through the base station and be answered by the person on duty at the control point. The customer will be connected through the base station and he may talk to another mobile radio unit through Applicant's facilities alone. If interconnection with a landline telephone company is obtained, the telephone company will install the facilities and equipment at Applicant's control point and the person operating the control point will be able to

connect any of the mobile radio customers directly to the telephone system for local and long distance service, and vice versa. As an integral part of its service, Applicant will provide message retention, message relay, and dispatch station service. Applicant will also provide one-way tone and/or voice communications from the base station to portable paging units.

5. Intervenor, Southern Bell Telephone and Telegraph Company, is a landline telephone company franchised to serve, and serving, in the area where the control point and base station is located. It does not offer mobile telephone service having as an integral part thereof message retention service or message relay service and does not desire or propose to offer said service.

6. A service substantially similar to that offered by Applicant under its Federal Communications Commission license is not now available to the public at Selma, North Carolina.

7. Applicant's financial statement shows total assets as of September 30, 1967, of $3,745.87 and a net worth of $3,089.23. Applicant's Executive Vice President holds a second-class radio-telephone operator's license, has been engaged in the two-way radio business for ten (10) years and has assisted, supervised and planned the installation of various radio common carrier stations and private two-way radio operations. Applicant has the facilities, the experience and financial ability to continue and expand its radio common carrier service.

CONCLUSIONS

1. By virtue of the decision of the North Carolina Supreme Court in State v. Telegraph Company, 267 NC 257, and statutes governing public utilities in the communications field, this Commission has jurisdiction over the subject matter of the application in this docket and the service proposed. Applicant and Intervenor are properly before the Commission.

2. Under applicable case and statutory law, Applicant has borne the burden of proof and has established to the Commission's satisfaction that public convenience and necessity justifies and requires, or reasonably will justify and require, the provision of domestic public land mobile radio service with control point located at Selma, North Carolina, and a primary service area radius of twenty-five (25) airline miles measured from the base station located in or near Selma, North Carolina, and interconnection with the facilities of Southern Bell Telephone and Telegraph Company at Selma, North Carolina.

3. Applicant is fit, ready, willing, and able, financially and otherwise, to provide on a continuing basis the mobile radio service proposed in this docket.

4. The proposed service is not unreasonably or injuriously competitive or duplicative to the services of the landline telephone company or to other mobile radio common carriers serving in the same general area; nor is said service substantially similar to that being offered, or proposed to be offered, by the landline telephone company serving the area.

5. Applicant should be issued a certificate of public convenience and necessity to provide the mobile radio service proposed, with approval of the Commission for interconnection with the landline telephone company, Southern Bell Telephone and Telegraph Company, at Selma, North Carolina, upon agreement by said telephone company to the interconnection.

Accordingly, IT IS ORDERED:

1. That Applicant, Ra-Tel Company, Inc., be, and it hereby is, granted a certificate of public convenience and necessity to own and operate a domestic public land mobile radio communications system with the control point located in Selma, North Carolina, and with authority to interconnect with the landline telephone facilities of Southern Bell Telephone and Telegraph Company at the control point in Selma, North Carolina, upon agreement by the telephone company. Further included in this authority is the right and requirement that Applicant provide a message retention and relay service for its subscribers as an integral part of its mobile radio service. Applicant is also authorized to provide paging services and like services wholly incident to domestic public land mobile radio service as determined by the Federal Communications Commission. Specific frequency and territorial authorization and location of Applicant's control points shall be as now or hereafter prescribed by the Federal Communications Commission in its licensing procedure.

2. Within thirty (30) days of the issuance of this order, Applicant shall file with the North Carolina Utilites Commission a tariff covering the proposed operations, rates, charges, and rules to be applicable to North Carolina intrastate communications service as proposed to be rendered in this proceeding.

3. Applicant shall keep its books and records in such manner as is provided by the Uniform System of Accounts for communications companies operating in intrastate commerce in North Carolina and shall otherwise comply with the rules of this Commission now or hereafter adopted.

4. This order of itself shall constitute the certificate herein authorized to be issued and no further evidence of authority shall issue.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of November, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-89, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Provision of flat rate service between the Research Triangle Area Office No. 549 of the Durham exchange of the General Telephone Company of the Southeast and Chapel Hill and the Raleigh telephone exchanges (Chapel Hill Telephone Company and Southern Bell Telephone and Telegraph Company, respectively)	ORDER

BY THE COMMISSION: Following conferences between the Commission and all interested parties, the Commission is of the opinion and finds it in the public interest that telephone service without toll charge be provided between the Raleigh exchange of Southern Bell Telephone Company and the Research Triangle Park Office No. 549 of the Durham exchange of General Telephone Company of the Southeast and between the Research Triangle Park Office No. 549 of the Durham exchange and the Chapel Hill exchange of the Chapel Hill Telephone Company, owned and operated by the University of North Carolina.

The Commission further finds that, pending installation of facilities necessary to the provision of the foregoing service, General Telephone Company of the Southeast and Southern Bell Telephone and Telegraph Company should improve existing service between the aforesaid exchange of General Telephone Company of the Southeast and the Raleigh exchange of Southern Bell Telephone and Telegraph Company and should study ways of rendering a more efficient and economical foreign exchange service between said exchanges.

Accordingly, IT IS ORDERED:

1. That General Telephone Company of the Southeast make all necessary capital investment and install all necessary facilities to the end that telephone service be provided without toll charge between its Research Triangle Park Office No. 549 of the Durham exchange and the Chapel Hill exchange of the Chapel Hill Telephone Company and likewise between its Research Triangle Park Office No. 549 of the Durham exchange and the Raleigh exchange of Southern Bell Telephone and Telegraph Company.

2. That Southern Bell Telephone and Telegraph Company make all necessary capital investment and install all

necessary facilities to the end that telephone service without toll charge be provided between its Raleigh exchange and the Research Triangle Park Office No. 549 of the Durham exchange of General Telephone Company of the Southeast.

3. That all actions, investments, and construction required herein be made on a joint basis in accordance with previously established inter-company cooperative procedures and that all such construction be programmed so that the service herein authorized and required be made available not later than the first quarter of 1969.

4. That this docket be retained for the purpose of receiving written progress reports from Southern Bell Telephone and Telegraph Company and General Telephone Company of the Southeast on December 31, 1967, and each three (3) months thereafter unitl the service herein referred to is established.

5. That Southern Bell Telephone and Telegraph Company and General Telephone Company of the Southeast, in cooperation with each other and with the University of North Carolina, provide improved interim service between the exhanges involved, make further studies to determine whether the applicable foreign exchange service rate may reasonably be reduced, and report their actions, findings, and recommendations to the Commission.

ISSUED BY THE ORDER OF THE COMMISSION.

This the 17th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-7, SUB 368

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Rochelle Gay, Chloe Baker, Mabel Baker, Coleman)
Arnold, Kirby Bunn, Bruit Bunn, Kelvin Pearce)
Complainants)
vs.) ORDER
Carolina Telephone and Telegraph Company and)
Southern Bell Telephone and Telegraph Company)
Defendants)

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on January 10, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott (presiding) and Commissioners Sam O. Worthington, Clarence H. Noah, John W. McDevitt, and Thomas R. Eller, Jr.

APPEARANCES:

For the Complainants:

Howard G. Doyle
Attorney at Law
405 Lawyers Building
Raleigh, North Carolina

For the Defendants:

Hill Yarborough
Yarborough, Blanchard, Tucker & Yarborough
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Louisburg, North Carolina
For: Mrs. H.T. Johnson
Mr. E.V. Arnold

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Harvey L. Cosper
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Southern Bell Telephone and Telegraph Company
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For: Southern Bell Telephone and
Telegraph Company

For the Commission's Staff:

Edward B. Hipp
Commission Attorney
P.O. Box 991, Raleigh, North Carolina

ELLER, COMMISSIONER: This is a complaint proceeding in which seven (7) prospective subscribers who live in the service area of Carolina Telephone and Telegraph Company (Carolina) seek service from Southern Bell Telephone and Telegraph Company (Bell). The complaint was served upon the two telephone utilities as defendants. They answered, refusing to satisfy the complaint and setting up matters in justification of their refusal. The Commission then set, gave notice of, and held public hearings with parties present and represented as captioned.

Having considered the evidence and briefs filed by counsel, we make the following

FINDINGS OF FACT

1. The seven (7) complainants are citizens and residents of Franklin County residing on both sides of and along Secondary County Road 1720 at its intersection with County Road 1103 (known as "Riley Crossroads") and extending eastward along 1720 about 1.8 miles toward Zebulon. The area is about eight (8) miles north of Zebulon and about fifteen (15) miles south of Louisburg.

2. Carolina has extended its telephone facilities to the area from the north along County Road 1715 to its junction with County Road 1720 in about the center of the area involved; thence, Carolina's facilities branch east and west along 1720 passing in front of the residences of each of the complainants. Bell's facilities approach the area from the west and from the south, being on County Roads 1103 and 1720 at their intersection at Riley and on Road 1715 at the eastern edge of the area about two-tenths of a mile south of County Road 1720. In other words, the facilities of the two companies meet at the area involved, but do not duplicate each other.

3. Bell serves one subscriber north of Riley on the west side of County Road 1103 from its facilities on Secondary Road 1720. Carolina serves three subscribers in the area, two of whom desire to retain Carolina's service. Of these two, one subscriber is at Riley on the north side of County Road 1720 (the extreme western edge of the area involved) and the other is on the north side of County Road 1720 (the extreme eastern edge of the area). Complainants all live between these two subscribers on both sides of County Road 1720.

4. Carolina's existing facilities in the area consist of open wire bracket type installation of a single pair of wires mounted on poles of Carolina Power & Light Company. These facilities can accommodate multiparty service only. Bell's facilities are of the buried cable type with eleven pairs of wire and can accommodate all grades of telephone service.

5. Multiparty telephone service has been available to complainants from Carolina's open wire facilities as described since 1959. All except one have failed to subscribe to Carolina's service and show no inclination to do so. The one complainant who does subscribe to Carolina's service operates a general store on County Road 1720 about three-tenths of a mile east of Riley. He took Carolina's service out of business necessity, but finds its service unsatisfactory and of little value to him and desires Bell's service.

6. The approved boundary line between the service area of Carolina Telephone and Telegraph Company's Louisburg exchange and the Zebulon exchange of Bell crosses County Road 1103 north of Riley and, after a short distance, turns south and crosses County Road 1720. About two-tenths of a mile south of Riley, it turns east and runs south of and parallel to Highway 1720 to Norris Creek, which it then follows southeasterly out of the area involved. County Road 1720 is in Bell's Zebulon exchange area at Riley, and enters and becomes a part of Carolina's Louisburg exchange two-tenths of a mile east of Riley. All complainants are in the Louisburg exchange service area of Carolina Telephone and Telegraph Company according to the aforesaid line between the service area of the two utilities.

7. The boundary line as it now exists was not based upon canvas of the area to determine the needs and desires of the people in the area. It follows no well defined or consistent geographical or political subdivision line. The present economic, social, and family ties of complainants are within the area served by Southern Bell through its Zebulon exchange. Complainants have little need or desire for telephone service northward through Louisburg.

8. Southern Bell Telephone and Telegraph Company's refusal to serve complainants is based primarily on the fact that complainants are in Carolina's service area according to the present boundary line. Bell's refusal to serve is not justified by any real economic infeasibility or probable wasteful duplication of facilities.

CONCLUSIONS

It is evident that the area here involved is on a "swing line" of interest between the Louisburg community of interest and the Zebulon community of interest. A subscriber at each end of the area asserts an interest toward more distant Louisburg. The seven complainants, who are in the center of the area, assert their interest toward the nearer Zebulon.

Ordinarily, where a community of interest is somewhat mixed, we have felt constrained to adhere to a long established boundary line between telephone exchanges rather than to tamper with it. This policy, however, presupposes at least three conditions:

(1) That the existing boundary follows some well defined geographical feature or political subdivision boundary or is otherwise reasonably and consistently drawn;

(2) That to change the boundary line as already established would result in material duplication of facilities;

(3) That the service available from the company not desired is generally comparable in quality to that of the company sought.

The foregoing conditions are not present here:

(1) The boundary line as presently drawn is on its face an arbitrary approximation;

(2) The duplication of facilities which would result from allowing Bell to serve these complainants is extremely small. Carolina's investment would not be impaired because it has no poles in the area and only two open wires there. Bell's facilities are already built to the area and Bell would have only minor additional investment to serve the complainants;

(3) Bell can provide a higher grade of service to these complainants than is now available to them and can do it with less additional investment and more completely than can Carolina.

We, therefore, are of the opinion that complainants ought reasonably to be accorded Bell's service. In so doing, we see no necessity of depriving the two existing, satisfied Carolina customers of the service they desire.

Accordingly, IT IS ORDERED:

1. That Southern Bell Telephone and Telegraph Company be, and it hereby is, directed to take the applications of Rochelle Gay, Chloe Baker, Mabel Baker, Coleman Arnold, Kirby Bunn, Bruit Bunn, and Kelvin Pearce and, as soon as practicable thereafter, to extend its facilities to them and provide them with the grade of telephone service requested.

2. That Carolina Telephone and Telegraph Company be, and it hereby is, directed to leave the facilities it now has in the area as now located and to continue to serve Mrs. Helen Johnson and Mr. E.V. Arnold so long as they desire its service.

3. Carolina Telephone and Telegraph Company and Southern Bell Telephone and Telegraph Company shall, within thirty (30) days following the date this order issues, file with this Commission any proposed changes in the boundary line at the location involved not inconsistent with, and deemed necessary or appropriate to, the provisions of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-7, SUB 368

WORTHINGTON, COMMISSIONER, DISSENTING: In order to set the record straight I call attention to certain findings in the majority order which not only do not conform to the evidence but controvert it:

1. The area involved is ten miles north of Zebulon instead of eight.

2. Bell has no facilities on County Road 1720 nor on County Road 1715. Bell's facilities are actually on County Roads 1103, 1756, 1722 and 1721 and are no nearer than three-tenths of a mile of County Road 1720, except along County Road 1103 its facilities cross west of the intersection at Riley and, therefore, at this point may be nearer than three-tenths of a mile to County Road 1720 which terminates at the Riley Crossroads.

3. The facilities of the two companies do not meet at any point.

4. Bell does not serve any customer from its facilities on Secondary Road 1720.

5. Mabel Baker, one of the complainants, does not live between the two subscribers to Carolina's service on County Road 1720 but lives east of the intersection of County Road 1722 and County Road 1720.

6. The facilities of Carolina along County Road 1720 are not limited to the accommodation of multiparty service only.

7. At least two of the complainants, instead of one, have subscribed to Carolina's service, Bruit Bunn and Coleman Arnold.

Carolina Telephone and Telegraph Company (Carolina) and Southern Bell Telephone and Telegraph Company (Bell) are noncompetitive public utilities engaged in rendering telephone service to the public under the jurisdiction and regulation of the North Carolina Utilities Commission (Commission) in their respective territorial boundaries which have been assigned to them by the Commission through a certificate of public convenience and necessity issued upon a showing of need for service in the respective areas. The Commission has spared no effort to pressure, encourage and require that each of these companies construct facilities to the outermost parts of their service areas and provide service for every resident in their respective areas. Carolina, under the direction and pressure of the Commission and in its effort to furnish telephone service to its territory assigned to it by the Commission, has built and constructed, at company cost, facilities into this part of its territory and has had these facilities there for 15 years or more, adequate to give service to every complainant in this matter, which service, according to the testimony of

complainants themselves, is adequate and satisfactory for the needs of one subscriber, Mrs. Johnson, and for another subscriber, E.V. Arnold, who by the way is the father of one of the complainants and lives directly across County Road 1720 from such complainant. Carolina stands ready, able and willing to provide for complainants any class of service that complainants need and desire within the scope of its territory and the purview of its tariff filings accepted by this Commission. The only failing is that Carolina's customers in this particular area do not have extended area service, toll-free service, to the vast number of customers in Raleigh, Zebulon, Wendell, Knightdale, Cary and Garner.

Bell, in keeping with the wishes and requirements of this Commission and at company cost, has built and constructed facilities into its territory, adjacent to the Carolina territory, adequate and sufficient to supply service to all those who may desire service in its territorial area but has not built and constructed facilities to serve customers in the Carolina Territory. Bell, in its effort to give its customers adequate service and to fully serve its territory, has inaugurated and installed extended area service between its Zebulon exchange and Raleigh, between its Wendell exchange and Raleigh, between its Knightdale exchange and Raleigh, between its Cary exchange and Raleigh and has taken Garner into the Raleigh exchange. Therefore, its Zebulon customers are able to call all the customers in the Raleigh area without toll charge. Bell could not and did not anticipate in its construction program service to complainants in another company's territory and it did not build and construct facilities to serve complainants in another company's service area. It can and will, of course, if ultimately required to do so, expend an additional $3,000 and offer the seven complainants service.

The majority order requires Southern Bell to extend its lines into served Carolina territory and serve the seven complainants. It requires Carolina to maintain its present facilities and continue service to Mrs. Johnson and to E.V. Arnold.

Carolina has service to the area by the means of wires strung along County Road 1715 to its intersection with County Road 1720, and here its lines run westwardly along County Road 1720 by the homes of complainants Rochelle Gay, Chloe Baker, Bruit Bunn and Kirby Bunn to the home of Mrs. Johnson, who has and desires to retain Carolina's service. These wires also extend eastwardly along County Road 1720 from its intersection with County Road 1715 by the homes of Kelvin Pearce, E.V. Arnold, Coleman Arnold and Mabel Baker and then on to service other customers. E.V. Arnold, who lives next door to Kelvin Pearce and just east of Kelvin Pearce and just across County Road 1720 and a bit east of Coleman Arnold, his son, desires to retain his Carolina service. It is, therefore, physically impossible for Bell to extended its lines across its established boundary and into Carolina territory and serve applicants without going

over or under the Carolina line being used to serve Mrs. Johnson or without paralleling and duplicating said line. Neither can it extend its lines and serve Kelvin Pearce without likewise going over or under or paralleling the Carolina line. It may well extend its line along County Road 1722 and serve Mabel Baker without going under or over or paralleling any Carolina line. Carolina, therefore, in order to maintain service to Mrs. Johnson and to E.V. Arnold, its satisfied and desiring customers, must maintain this entire line. Conceivably Bell may extend its service from its facilities on County Road 1103 at Riley eastwardly along County Road 1720 and serve each of the complainants by simply paralleling and duplicating the Carolina line. In either event the majority order sets a precedent heretofore not sanctioned but rather discouraged by this Commission in that it requires Bell to violate the integrity of the Carolina territory, parallel and duplicate its services and serve customers in the Carolina territory.

Basically and fundamentally I disagree with the majority order for two main reasons, among others: (1) It does violence to the regulatory process, destroys the concept of exchange boundary lines and completely refutes and contradicts the previous holdings and rulings of the Commission. (2) It requires Bell to extend its service from its area heretofore assigned it upon a showing of public convenience and necessity into Carolina's territory without any finding of public convenience and necessity or any need for the construction of additional facilities to serve complainants except upon the mere fact that complainants desire Southern Bell service.

Through the regulatory process the telephone industry in this State, and I am told generally throughout the country, has for many years found it convenient, adequate and necessary to establish exchange boundary areas within the company so as to be able to render adequate service to the public.

Generally speaking, and as with the exchanges here involved, the boundaries of Bell's Zebulon exchange were established by a showing of public convenience and necessity and the issuance of a certificate for same by the Commission. The boundaries of Carolina's Louisburg exchange were likewise established by a showing of public convenience and necessity and a certificate issued therefor by the Commission. Bell, serving the more populated area than Carolina, is able to render its customers a somewhat better grade of telephone service due to the large calling scope generated by the inauguration of extended area service between Zebulon and Raleigh. The location of present applicants is along a very small portion of the Bell boundary line between its Zebulon service and that of Carolina in its Louisburg and other exchange services. Hundreds of people immediately along this boundary line and just outside Bell's Zebulon exchange service and in Carolina's service stand ready and willing to present to

this Commission the same factual situation as complainants have presented. Already there is on file with this Commission a petition of 36 of these people for an order requiring Bell to extend its service to them. The granting of applicants' service requests in this instance simply adds fuel to the fire and inevitably leads to a myriad of requests for Zebulon service. The Commission, therefore, places itself in the position of having to require Bell to extend its services or to tell the other people that the gleam in their eye is different from what it was in the eyes of the present complainants and, therefore, they cannot have the service. In addition, as Bell is required to extend its service into Carolina's territory, then the people who live just a little farther in Carolina's territory than present complainants are placed in the same position that complainants were before they received Bell service and are in position to make the same showing that complainants made. There is simply no end to this kind of a situation because when people, being human as they are, see immediately adjacent a telephone service that offers a calling scope of 100 times what they presently have and at rates that are commensurate or lower than what they are presently paying, are going to besiege this Commission on the basis of this order with requests that they are entitled to be accorded the same treatment. Far better that this Commission adhere to the boundary line in this instance with the assurance that it will not be plagued with other similar requests. Factually, it brings this Commission face to face with a matter that it has always avoided and declined to grant, that is, the requirement of one company to extend its service into the service area of another company, duplicate and parallel its lines and have both companies rendering service on paralleled and duplicated lines at different rates. I can conceive of no greater catastrophe in the regulation of the telephone industry in this State than what will be brought about by this order if it becomes final.

This situation is not local to the Zebulon and Louisburg exchanges in Bell and Carolina's territories. This situation prevails throughout the industry in the State. Recently we have had two conferences involving this same type of situation. In each instance it involves the privilege, of those seeking a change, to have service from an area where they will have a much larger calling scope than is now available to them. In each instance service is already available and numbers of people are being served. Some are satisfied with their service; others are not. The telephone industry in the State may well view with alarm the action of the Commission here taken. It is apparent that the Commission is here setting a new policy - one which it has heretofore refused to follow or permit. It is here actually requiring, without any affirmative showing of public need or necessity of any kind, one telephone company to extend its services beyond its territorial boundary into the served territory of another company and there duplicate and parallel the other company's service lines and render service to such of the customers in the other telephone

company's area who may desire the invading company's service. This policy is established here in the face of the fact that both companies resist the action required and both companies have constructed facilities at company cost to serve customers in their assigned territory and are and have been for years in position to render service to all the customers in their assigned territories.

The area here involved may be on a "swing line" of interest between two exchanges, but I say to this Commission that upon the issuance of this order literally hundreds of so-called "swing line" cases will appear overnight, and the Commission may well be "swing line" happy before it is over. As much as I prefer that every citizen in the State have the public utility service he feels best fits his needs, I cannot agree that Bell should be required to extend its service into the Carolina territory and serve the seven applicants here except that I know that I can follow the same policy in every other similar case. I know that I would have difficulty in granting these applicants what they seek and denying their neighbors a mile down the road the same right. I know that others are going to have that same difficulty. I am satisfied that this action violates every regulatory principle and establishes a precedent that will be dangerous to regulation and regulatory principles.

I was firmly of the opinion that this Commission once and for all settled the question here involved as late as December 27, 1966, in Docket No. P-18, Sub 15, in the complaint of Carl F. Benfield, et al., against Lexington Telephone Company and Denton Telephone Company when it said:

> ". . . It has not been the policy of this Commission to require a telephone company against its better judgment to surrender portions of its territory which it is serving and require another company to serve the territory except upon very compelling circumstances."

Further in the same order we find this language:

> ". . . A company, once it is assigned a territory for service, has the duty and obligation to serve people in its service area. The public interest requires that it be in position to afford service in its assigned territory and it is in the public interest that its territorial boundary remain inviolate except upon a clear and strong showing of public need for such change. . . . "

Further the Commission said in this same order:

> ". . . We conclude that the public interest does not require that the boundary lines of the Denton Telephone Company be changed and that Lexington Telephone Company be required to render service in an area of the Denton Telephone territory in which Denton is already rendering service."

The majority order completely refutes and destroys the holding in that case. It does so without any suggestion of or finding that the public interest will be served by the requirement made. It is interesting to note that the complainants in Docket No. P-18, Sub 15, have appealed the Commission's ruling to the Courts and the present holding offers opportunity to complainants' counsel to argue with merit to the Court that the Commission has already refuted its holding in that case.

It is understandable, of course, that the majority order does not necessarily change the physical location of the boundary line between the two exchanges. However, it does worse than change the boundary line because it requires Bell to extend its service into Carolina's territory and serve customers in the Carolina territory by duplicating and paralleling or crossing the lines that Carolina has already established. Further than that it requires Carolina to continue to maintain its lines and render service to two customers. It is remarkably silent as to which company will be entitled to serve additional customers who may be available along the duplicated service lines. Mrs. Johnson lives at the western end of the duplicated lines and E.V. Arnold lives at what is practically the eastern end of such lines. The distance between these two is almost two miles. As others construct homes within this area, will they be entitled to service from Bell or will they be entitled to service from Carolina, or do they have a choice, or may they have service from both?

If the majority order is going to become final, I simply wonder if there are not a lot of things unanswered that ought to be spelled out. For my part, the order does a grave injustice to regulation, to the two companies involved and places this Commission in an intolerable compromising situation, one for which there is really no need.

With respect to all and special privilege to none, I respectfully dissent from the document.

Sam O. Worthington, Commissioner

DOCKET NO. P-7, SUB 368

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Rochelle Gay, Chloe Baker, Mabel Baker, Coleman Arnold, Kirby Bunn, Bruit Bunn and Kelvin Pearce	)	ORDER VACATING
Complainants	)	ORDER OF
vs.	)	COMMISSION
Carolina Telephone and Telegraph Company and Southern Bell Telephone and Telegraph Company	)	HERETOFORE ISSUED AND DISMISSING THE COMPLAINT
Defendants	)	

WORTHINGTON, COMMISSIONER: Rochelle Gay, Chloe Baker, Mabel Baker, Coleman Arnold, Kirby Bunn, Bruit Bunn and Kelvin Pearce will be referred to in this order as "complainants" unless otherwise designated. Carolina Telephone and Telegraph Company will be referred to as "Carolina" and Southern Bell Telephone and Telegraph Company as "Bell." Two other people, Mrs. H.T. Johnson and Mr. E.V. Arnold, represented by counsel, participated in the proceeding in an effort to retain their present telephone service and for convenience will be referred to as "protestants."

The Commission treated as a formal complaint a letter dated November 4, 1966, carrying the names of the seven complainants. Complaint was duly served upon Carolina and Bell. They declined to satisfy the complaint, and the Commission scheduled and held public hearing after notice to all the parties. Subsequent to such hearing and after briefs had been filed by the respective parties, the Commission issued its majority order on March 28, 1967, in which findings of fact were made and conclusions reached to the end that it was ordered:

"1. That Southern Bell Telephone and Telegraph Company be, and it hereby is, directed to take the applications of Rochelle Gay, Chloe Baker, Mabel Baker, Coleman Arnold, Kirby Bunn, Bruit Bunn, and Kelvin Pearce and, as soon as practicable thereafter, to extend its facilities to them and provide them with the grade of telephone service requested.

"2. That Carolina Telephone and Telegraph Company be, and it hereby is, directed to leave the facilities it now has in the area as now located and to continue to serve Mrs. Helen Johnson and Mr. E.V. Arnold so long as they desire its service.

"3. Carolina Telephone and Telegraph Company and Southern Bell Telephone and Telegraph Company shall, within thirty (30) days following the date this order issues, file with this Commission any proposed changes in the boundary line at the location involved not inconsistent with, and deemed necessary or appropriate to, the provisions of this order."

Within apt time Bell and Carolina filed exceptions and gave notice of appeal to the Superior Court. With their exceptions and notice of appeal they filed a motion under the provisions of Section 62-90 of the North Carolina General Statutes that the exceptions be set for further hearing before the Commission to the end that the Commission reconsider and make determination of the issues raised by the exceptions. The Commission granted the motion to the extent of scheduling and holding oral argument on the exceptions.

Bell makes 21 separate exceptions. Carolina makes 24 separate exceptions. For all practical purposes the exceptions of both Bell and Carolina involve the same questions.

The Commission now concludes that the exceptions should be sustained, as hereinafter stated, to the extent that the original order should be vacated, the relief sought by the complainants denied and the complaint dismissed.

Factually, Carolina and Bell are public utility companies engaged in the rendering of telephone service to the public in their respective territorial areas. Each has been so engaged for many years. They hold certificates from the Commission authorizing them to engage in general telephone service. Carolina has an exchange in Franklin County at Louisburg. Bell has an exchange in Wake County at Zebulon. The southern boundary of Carolina's Louisburg exchange area and the northern boundary of Bell's Zebulon exchange area is a common line as established by this Commission through approval of territorial area maps of the companies. The common boundary line was established as much as, or more than, 15 years ago. It has been adhered to by both companies since its establishment. The boundary line is actually located in Franklin County, about .3 of one mile south of Franklin County Road 1720, and approximately parallels said county road in the area involved.

Bell has facilities in its territory near the boundary line and along County Roads 1756, 1722 and 1721. It is actually serving some customers just south of the boundary line. Bell also has facilities along the western edge of County Road 1103.

Carolina has facilities along Franklin County Road 1715 to its intersection with County Road 1720 and thence east and west from this point along and across County Road 1720 with service to E.V. Arnold and Mrs. H.T. Johnson, both on the north side of County Road 1720, and to complainant Bruit Bunn, who has a store in the area between County Road 1720 and the established boundary line between the two exchanges. It served T.C. Arnold on the south side of County Road 1720, between County Roads 1756 and 1722 and in the area between County Road 1720 and the boundary line, until he had his phone removed.

County Roads 1720 and 1103 intersect at what is known as RILEY. The boundary line between the two exchanges turns from an east-west course to the north at a point about .3 of a mile south of County Road 1720 and just east of County Road 1103 and crosses County Road 1720 for a short distance where it again turns westwardly. The home of Mrs. H.T. Johnson is just north of County Road 1720, east of the boundary line of the exchanges and in Carolina territory. E.V. Arnold has his home on the north side of County Road 1720 east of Kelvin Pearce's home in Carolina exchange

territory. Both desire to retain their same telephone service which they have had for many years.

Complainants all reside immediately along County Road 1720 and within a two-mile distance eastwardly from the boundary line intersection with County Road 1720, Chloe Baker, Rochelle Gay and Kelvin Pearce having their homes just to the north of said road, while Bruit Bunn, who has Carolina service and desires to change it for Bell service, his son, Bruit Bunn, Jr., T.C. Arnold and Mrs. Mabel Baker have their homes or place of business just south of County Road 1720. Other than Bruit Bunn, they do not have phone service and desire service from Bell. Service is available to each of them from Carolina.

Bell offers toll-free service from its Zebulon exchange to its exchanges in Raleigh, Wendell, Knightdale and Cary. Carolina has multiparty service available now for all the complainants and will, in a short while, have available any grade of service complainants may desire but will not be able to give them toll-free service to Zebulon, Raleigh and other points. Bell's nearest facilities through which complainants could be served are at least .3 of a mile south of any of the complainants. Bell and Carolina each have constructed facilities and designed their plants on the basis of serving people in their respective territories. Bell will have to make an investment of $3,000 or more to serve complainants.

Though Carolina service has been available to complainants for more than 15 years, complainants Chloe Baker, Mabel Baker and Rochelle Gay never applied for the service and applied to Bell for service only after toll-free service from Zebulon to Raleigh was available. Complainants' primary interest in obtaining Bell service is to be able to call Zebulon and Raleigh toll free.

Carolina and Bell each except to paragraph 1 of the decretal part of the majority order, reading as follows:

> "1. That Southern Bell Telephone and Telegraph Company be, and it hereby is, directed to take the applications of Rochelle Gay, Chloe Baker, Mabel Baker, Coleman Arnold, Kirby Bunn, Bruit Bunn, and Kelvin Pearce and, as soon as practicable thereafter, to extend its facilities to them and provide them with the grade of telephone service requested."

In support of said exception each asserts in effect that same is unsupported by competent, material and substantial evidence; is unsupported by any findings showing any compelling reason to require such extension of service beyond the Zebulon exchange boundary line of Bell and into the Carolina service area without the consent of either; is unsupported by conclusions of law, is in excess of statutory authority and jurisdiction of the Commission; is arbitrary and capricious; and the requirement that Bell serve persons

outside of and beyond the geographic area which it has undertaken to serve, and requires Carolina to submit to an entry by Bell into its service area and serve persons which it has made investments in facilities to serve, constitutes a deprivation and the taking of the property of each in violation of the Constitution of the State of North Carolina and the Constitution of the United States of America.

Carolina and Bell also except to decretal paragraph No. 2 of the order for that the requirement on the part of Bell to cross the boundary line and serve certain persons in the Carolina area and at the same time requiring Carolina to continue to serve persons in the same area will at least require the facilities of Bell in both its own exchange and the Louisburg exchange of Carolina and result in paralleling and duplicating facilities in violation of the Constitutions of the State of North Carolina and the United States.

Carolina and Bell also except to the order requiring Bell to extend its facilities into the Carolina exchange area and serve persons in the Carolina service territory for that same gives Bell no protection in the territorial integrity of its investment required for such purpose; that same is contrary to sound principles of utility regulation and beyond the statutory authority of the Commission. They except further for that the order leaves an uncertainty as to which company shall in the future serve persons who may want service in this immediate area and sets a precedent for all persons residing along and near the boundary line of any two telephone exchanges to seek and demand service through the exchange which best suits such persons' convenience without any regard to territorial integrity. They except further to the order in that it requires Bell to extend its facilities into the Carolina Territory and serve persons which Carolina has constructed facilities to serve, and is amply able to serve, without any showing of public convenience and necessity and solely upon the basis that such persons desire Bell service because of toll-free service to Zebulon and Raleigh and that at least some of them have friends and relatives and transact business in the Zebulon and Raleigh area.

The majority order issued in this matter sets a precedent heretofore not established by the Commission. In some instances the Commission has, upon adequate showing, changed the established boundary line between two exchanges of the same company or the exchange of one company and an exchange of another company where no service was available in the area involved so as to place the area in the exchange from which the customers desired service. It has not been the policy of the Commission to require a telephone company to extend facilities into the exchange area of another telephone company and serve customers or patrons in the other company's service area and at the same time require the company whose service area is being invaded to continue service to customers in the same area which results in the paralleling and duplicating of facilities by the two

companies. Nor has the Commission required a telephone company to extend facilities from one of its exchange areas into another of its exchange areas and render service to customers in this other exchange area resulting in duplication of line and services.

It has long been a custom in the telephone industry where natural boundaries are not available and lines are established along roads or highways that such line be established at such distance from the highway as to include both sides of the highway in the one exchange area and eliminate the possibility of one company serving customers on one side of the road and the other company serving the other side of the road. In this instance County Road 1720 and the established boundary line for the length of the area involved parallel one another and was and is established about .3 of a mile south of the road in keeping with the practice followed by the industry. It will cost Bell approximately $3,000 to extend facilities to and serve complainants who reside along County Road 1720 over a distance of approximately 1.8 miles. Carolina is required to maintain its lines along this same road and continue to serve two customers, one at the western end of the community and the other at the eastern end. The boundary line remains unchanged. Bell is given no authority to serve any other persons who might desire service within the area and Carolina is not necessarily denied the right to serve other customers in the area. By implication it may be that Carolina's service is limited to the two customers it now serves. The order creates uncertainty and confusion as to who shall render additional service that may be required in the immediate area. While Carolina may not be deprived of its facilities in the area under the order, by implication it is certainly limited to use of its facilities for the service of only two customers.

The dangers inherent in requiring a telephone company to extend its facilities and services into the exhange area of another company or from the exchange area of one of its own exchanges into the service area of another of its exchanges so that customers in the same area may be served - some through one exchange and some through another - are quite apparent. Literally there are thousands of people in North Carolina residing along and adjacent to exchange boundary lines. It is understandable that some customers may find it more advantageous to have service through the adjacent exchange than from the one in which they actually reside. This is especially true in instances where the rates in an adjacent exchange may be lower, or the calling scope greater or where the service offered permits a much larger toll-free calling scope. At the same time other customers desire to retain the service they have. A change in boundary line only results in satisfying one customer and dissatisfying another. In order to avoid this situation the majority order simply directs Bell to invade the exchange area of Carolina and serve those customers who want Bell service and allows those customers who want Carolina service to retain

same. The fallacy in this situation is that there are many more customers along exchange boundary lines who will seek the same type of service. The effect is to completely destroy the integrity of boundary lines and create an intolerable situation throughout the industry. The Commission will find it impossible to regulate this kind of a situation, and it will lead to complete confusion and utter frustration on the part of the industry. To say the least, it will be impractical to refuse to grant the request of other applicants for the same type of service under the same circumstances. Far better that the Commission adhere steadfast to its judgment in the establishment of boundary lines or at least re-establish boundary lines to the point where they may be sustained rather than to now embark upon a course of requiring the duplication of lines and service from one exchange area into another.

We point out that the majority order makes no finding that Carolina, in its service area, is not rendering, and cannot and will not render, adequate telephone service. We point out also that the majority order makes no finding that public convenience and necessity requires that these seven complainants be served by Bell. At most, the majority order finds and concludes that the seven complainants have business connections and friends in the Zebulon exchange area and prefer that service to the Carolina service. In this connection we call attention to the language used by the North Carolina Supreme Court, Utilities Commission v. Telegraph Co., 267 N.C., at page 271:

> "There is, however, inherent in this requirement the concept that, once a certificate is granted which authorizes the holder to render the proposed service within the geographic area in question, a certificate will not be granted to a competitor in the absence of a showing that the utility already in the field is not rendering and cannot or will not render the specific service in question."

Certainly Carolina has a certificate to render a general telephone service, and this Commission has assigned to it certain territory in which to render service and has approved maps on file with this Commission establishing boundary lines between its service area and that of Bell. Each of the companies renders general telephone service. In this particular instance the service available to complainants through Bell's exchange might well be to their advantage over the service available through Carolina in that they would have toll-free service to Raleigh. However, this does not justify an order by the Commission that Bell invade the service area of Carolina in the absence of the finding that Carolina is not rendering and will not render service to complainants.

Actually the order issued by the Commission in this matter on March 28, 1967, has the effect to pit the service of Bell against the service of Carolina and even more dangerous it

practically has the effect of putting telephone service up for grabs. It leaves the field wide open for any telephone customer to seek out and demand telephone service of its choosing without any regard to territorial integrity, costs involved or the inherent dangers to telephone customers generally. Carried to its logical conclusion the results of the order issued by the Commission in this matter on March 28, 1967, if finally sustained, could well destroy every concept of boundary lines and territorial integrity in the telephone industry. It could well make a mockery of regulation so far as telephone service is concerned and place this Commission in the nebulous position of having to determine the service any telephone customer might have upon request.

We conclude that the exceptions of Carolina and Bell to the extent set forth in this order are sustained, that the majority order issued in this cause should be vacated and the complaint dismissed.

IT IS THEREFORE ORDERED that the order issued by the Commission in this matter under date of March 28, 1967, be and same is hereby vacated, the complaint dismissed and the proceeding terminated.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-7, SUB 368

BILLER, COMMISSIONER, DISSENTING: One has great difficulty understanding the cause of the majority's complete reversal of position from our first order. Neither the present order nor the record makes us privy to the reasons for it.

Certainly, it seems ludicrous to speak, as the majority now does, of the almost sacred "integrity" of an imaginary and arbitrary line existing only on the maps of these telephone companies - a line drawn by them in the first instance with only their own interests in mind, with no notice to the affected people, no evidence, and no consideration of the communities of interest involved and then, in the second instance (again without notice), gerrymandered to some special purpose not of record.

Given the sacredness the majority now accords the line and, apparently, intends to continue to accord it, the result is simply to forever manacle these complainants and others like them to the prohibitive rates and party line telephone service of Carolina Telephone Company.

The majority order now quotes and draws upon the Supreme Court in Utilities Commission v. Telegraph Co. 267 N.C. 271. The Supreme Court in that case was discussing franchised territory granted under certificate of public convenience and necessity after public notice and hearing. In the matter before us, no one proved, or even contended, that Carolina Telephone Company holds a certificate of public convenience and necessity to serve the area including these complainants; nor did anyone contend or prove that the line of demarcation, the "integrity" of which the majority now so devotedly protects, was set after notice and hearing, either in the first instance or when it was later changed.

The substance in this matter is the community of interest of the complainants as it actually exists; the form is a fictional line existing only on the company's map. To exalt the latter and deprecate the former as is done here is, to put it mildly, to place form over substance. This is a regretable characteristic. If continued, it will have serious effects, not merely to those immediately deprived of service in their community of interest, but in the long run to the telephone company as well.

Thomas R. Eller, Jr., Commissioner

DOCKET NO. P-19, SUB 93

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

James Cooper, Jr., R.M. Thorpe, Robert T. Thorpe, Robert L. Thorpe, Rose Harris, Charlie Burgess, John H. Nelms, John K. Nelms

COMPLAINANTS

vs.

Carolina Telephone and Telegraph Company and General Telephone Company of the Southeast

DEFENDANTS

ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, November 16, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott (presiding) and Commissioners Thomas R. Eller, Jr., John W. McDevitt, M. Alexander Biggs, Jr., and Clawson L. Williams, Jr.

APPEARANCES:

A.H. Graham, Jr.
Newsom, Graham, Strayhorn and Hedrick

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For: General Telephone Company of the Southeast

Herbert H. Taylor, Jr.
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P.O. Box 308, Tarboro, North Carolina
For: Carolina Telephone and Telegraph Company

George A. Goodwyn
Assistant Attorney General
Raleigh, North Carolina
For: The Using and Consuming Public

Edward B. Hipp
Commission Attorney
Raleigh, North Carolina
For: The Commission's Staff

WESTCOTT, CHAIRMAN: On the 23rd day of August, 1967, a complaint was received by the Commission signed by the names listed in the above caption. Under date of August 30, 1967, the Commission entered an order serving said complaint upon the Defendants, Carolina Telephone and Telegraph Company (Carolina) and General Telephone Company of the Southeast (General), in accordance with Rule R1-9 of the Commission's Rules and Regulations. On September 11, 1967, the Commission received Answers from each of the Defendants, together with Demurrers and Motions to Dismiss. Under date of September 19, 1967, an order was entered by the Commission serving Answers and Demurrers to Complainants. Complainants filed on October 2, 1967, a request for public hearing before the Commission, and by order of the Commission dated October 17, 1967, the matter was set for public hearing at 10:00 a.m., Thursday, November 16, 1967, and heard before the full Commission.

At the call of the case for hearing, Complainants John K. Nelms and James Cooper, Jr., appeared and testified in support of their complaint. E.D. Wooten of Carolina and C.H. Scott of General appeared and testified in support of the Defendants' positions. The evidence of Complainants tends to show that James Cooper, Jr., Route 2, Box 254, Oxford, North Carolina, requested telephone service for his residence on State Road 1135 from the Carolina exchange at Oxford and that the requested service was denied on May 9, 1967, for the reason that said residence is located outside of the boundary of the Oxford exchange of Carolina and within the boundary of an exchange of General, and that Complainant Cooper was advised to seek telephone service from General; that rather than to apply for General telephone service, Complainant Cooper requested of General that he be permitted to receive telephone service from Carolina through its Oxford exchange; that all of the Complainants except James Cooper, Jr., Rose Harris and

Charlie Burgess now reside in the territory of Carolina served by the Oxford exchange; that Complainant John K. Helms resides in Oxford and not in the territory served by General and personally does not seek telephone service from Carolina in the area in controversy.

As heretofore stated, James Cooper, Jr., has requested service of Carolina and has been denied for the reasons stated. Neither Charlie Burgess nor Rose Harris at the time of this hearing had made application to Carolina, although their names appear on the petition filed with the Commission on July 19. According to the concrete evidence of record, only James Cooper, Jr., has formally applied for service requiring a change of the boundary line. Carolina serves along U.S. Highway 15 and General serves along State Road 1133; State Road 1135 connects U.S. Highway 15 with State Road 1133, a distance of approximately 4.2 miles, and James Cooper, Jr., resides approximately halfway between the boundary lines in the service area of General along State Road 1133.

The evidence of Defendants tends to show that Defendant Carolina has engineered and constructed its plant to provide service only within its certificated area and that Defendant does not have available telephone facilities which would be needed to serve Complainant Cooper; that Defendant General has facilities available to provide the desired service to Complainant Cooper as well as to each of the other two Complainants residing in its territory and has offered to make available its telephone service, and at the time of the hearing offered to render telephone service to each of the three signers of the complaint who reside within its boundary exchange area. Carolina offered evidence as to the additional cost which it would experience in providing service to Complainant Cooper. General asserted that should the boundary lines be changed in accordance with the desires of the Complainants, it would render useless a portion of the properties that it had constructed along State Road 1133 for the purpose of serving the area in controversy.

The evidence further tends to show that the boundary line in question was established in the year 1957 and that the same was approved by this Commission at the time.

FINDINGS OF FACT

1. That Carolina Telephone and Telegraph Company is a North Carolina corporation authorized to render telephone service in that portion of North Carolina set forth in the boundary maps filed with and approved by this Commission.

2. That General Telephone Company of the Southeast is a Virginia corporation authorized to render telephone service in that area of North Carolina set forth in its boundary maps filed with and approved by this Commission.

3. That the territory involved in this proceeding is a portion of State Road 1135 which joins State Road 1133 and U.S. Highway 15.

4. That the chief objection of Complainants is the fact that there is a toll charge between the Creedmoor exchange of General, which is available to Complainant customers, and the Oxford exchange of Carolina.

5. That in light of the evidence adduced, the complaint in this proceeding should be dismissed.

CONCLUSIONS

The Supreme Court of North Carolina in Utilities Commission v. Telephone Company, 267 N.C., at page 271, had this to say:

> "There is, however, inherent in this requirement the concept that, once a certificate is granted which authorizes the holder to render the proposed service within the geographic area in question, a certificate will not be granted to a competitor in the absence of a showing that the utility already in the field is not rendering and cannot or will not render the specific service in question."

Upon the record of evidence in this case, the Hearing Commissioners cannot find that General is not rendering and will not render telephone service to Complainants.

It has not been the policy of this Commission to require a telephone company to extend facilities in the area of another telephone company and serve customers or patrons in the other company's service area without compelling reasons therefor. It is understandable that some customers may find it more advantageous to have service through an adjacent exchange than from the one where they actually reside. This is especially true in instances where the rates in an adjacent exchange may be lower, the calling scope greater, or where the service permits toll free calling. To require one telephone company to invade an area of another telephone company where service is being rendered or offered to be rendered is to destroy the integrity of boundary lines and create an intolerable situation throughout the industry, one which the Commission will find it impossible to effectively regulate and will find it impractical to refuse to grant the requests of other applicants under the same circumstances. A finding that a proposed service will be of convenience to a complainant is not sufficient for the issuance of a certificate of public convenience and necessity without a further finding that there is a public need for the proposed service in the area. The language of the Supreme Court of North Carolina in Utilities Commission v. Railroad, 233 at page 365, in substance states that convenience to one shipper does not constitute public convenience and necessity.

It is our desire that telephone customers, where possible and practical, seek out and demand telephone service of their choosing. However, when this results in erosion of an existing authorized service area and investment, the total body of consumers served by the telephone industry must be considered. We therefore conclude and hold that the evidence in this case does not justify changing the boundary lines in the area now served by General so as to allow a single resident, or certainly not more than three residents, to be served by the Oxford exchange of Carolina. It is made to appear that the main interest of the Complainants in this proceeding is only in toll free service and there is not any proof of inadequacy of the service rendered by Defendant General.

IT IS, THEREFORE, ORDERED That the complaint of James Cooper, Jr., et al., in Docket No. P-19, Sub 93, be, and the same is hereby, dismissed.

IT IS FURTHER ORDERED That a copy of this order be transmitted to the Complainants and to each of the attorneys of record in this proceeding.

ISSUED BY ORDER OF THE COMMISSION.

This th 22nd day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-60, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Adjustment in the Rates of Service) ORDER APPROVING
Telephone Company) ADJUSTMENT

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, May 16, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott (Presiding) and Commissioners Sam O. Worthington and John W. McDevitt

APPEARANCES:

For the Petitioner:

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For the Using and Consuming Public:

George A. Goodywn
Assistant Attorney General
Room 210
State Library Building
Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
North Carolina Utilities Commission
Raleigh, North Carolina

BY THE COMMISSION: This matter came on for hearing and was heard at the captioned time and place. Notice of the purpose, time and place of said hearing was published in the Whiteville News Reporter on April 13 and 20, 1967, the newspaper having general circulation in the area served by the petitioner.

The evidence in the case tends to show that the petitioner is a North Carolina corporation with its general office and exchange located at Fair Bluff, North Carolina, and is engaged in the business of providing telephone service to the general public of Fair Bluff and environs. As of December 31, 1966, petitioner was serving 501 stations.

The evidence further tends to show that the petitioner seeks approval of an adjustment in its telephone rates to produce an annual increase in gross operating revenues of $4,261 in order to meet increased costs and expenses of the company, to make improvements in the system, and to earn a reasonable rate of return on its investment so as to attract capital needed for such purposes.

It is proposed by the company to increase its rates as follows:

CLASS	PRESENT	PROPOSED
Business		
1-Party	$ 7.50	$ 8.50
2-Party	6.00	6.50
4-Party	5.00	5.25
Multi-Party	5.00	5.00
Extensions	1.75	1.75
Residence		
1-Party	$ 4.75	$ 6.00
2-Party	3.75	5.00
4-Party	3.25	4.00
Multi-Party	3.25	4.00
Extensions	1.25	1.25

No one protested the increased rates, nor did anyone appear at the hearing in opposition thereto.

Testimony was given by the company's president and manager, who owns the majority shares of the 2,140 shares of common stock outstanding, to the effect that the company during the calender year 1966 derived $24,223 from local service, $17,061 from toll service, and $370 from miscellaneous services, or a total of $41,654. Its expenses and taxes, including income taxes, for the year amounted to $34,951, resulting in a net operating income of $6,703, and when adjusted for the growth factor experienced during the test period (2.0779%) amounts to $6,842.

As of December 31, 1966, the company shows its original cost to be $176,130, less depreciation of $40,735, or net investment of $135,395, plus an allowance for working capital of $1,880, or a net investment plus working capital rate base of $137,275. The company president testified that his estimate of fair value on the property is $250,000.

The Commission Staff made an examination of the operations and the rate of return derived therefrom for the calendar year 1966. It reported that according to the company's books the gross operating revenues for the period were $41,654; that after operating revenue deductions and adjustment of growth factor, the net operating income for return was $6,842. Based on the company's books the telephone plant in service at the end of the test period was $176,130, less depreciation reserve of $40,735, providing net investment in telephone plant of $135,395. The total allowance for working capital amounted to $1,880, leaving a net investment in telephone plant plus allowance for working capital of $137,275. After accounting and pro forma adjustments at the end of the period, the staff reports gross operating revenues of $41,462 and operating revenue deductions of $37,440, or a net operating income of $4,022, which after adjustment by the growth factor amounts to $4,106. The telephone plant in service, according to the staff, was $176,513, less depreciation reserve of $43,544, or net investment in telephone plant of $132,969. The total net investment, plus allowance for working capital, was $134,904, which provided a rate of return of 3.04%.

Applying the proposed increase in rates designed to produce $4,261 gross or $3,566 net, operating revenues would have been, as of the test period, $45,723, and net operating income for return would have been $7,672. The company would have had a rate of return of 5.69% on a total net investment in telephone plant, plus allowance for working capital.

Full and thorough consideration having been given to the evidence and testimony of record, the Commission makes the following

FINDINGS OF FACT

1. Service Telephone Company, with its place of business in the Town of Fair Bluff, North Carolina, is a North Carolina corporation engaged in conveying or transmitting messages or communications by telephone to the public for compensation at Fair Bluff and its environs, and as such is a public utility as defined in G.S. 62-3(23) subject to the jurisdiction of this Commission.

2. The exchange was acquired in 1949 by the present management and has been incorporated since 1956. The management has operated the company efficiently and economically and increased its stations from a total of 119 in 1949 to 501 at December 31, 1966.

3. The company's total net investment in telephone plant, plus allowance for working capital, as of the end of the calendar year 1966 was $134,904.

4. The rates and charges in effect as of December 31, 1966, fail to produce for the company a fair and reasonable rate of return on the value of its property devoted to public service in the service area of the company.

5. The rates and charges proposed by the company are just and reasonable and will permit it to earn a rate of return of 5.69% on the net investment plus working capital allowance rate base, which return is just and reasonable.

6. The schedule of rates proposed by the company will provide ample funds to cover fixed charges and make available a common equity earning of 4.03%.

CONCLUSIONS

Service Telephone Company renders a telephone service within its service area consisting of the Town of Fair Bluff and environs. The company served 393 main stations, or an aggregate of 501 stations, at the end of the test period, having made a gain of 31 stations during that period. The area served has not enjoyed an economic growth to the extent that other sections of North Carolina have; however, evidence points to the fact that Columbus County is beginning to participate in industrial growth which will require an expansion of the company's facilities. The company has improved its facilities to meet the demands of the public for telephone service through borrowed money at interest rates that the present rates and charges will not cover. We conclude, therefore, that to discharge its obligations and provide services in the future which the public requires, the company's proposed rate increases are necessary, in the public interest, will permit it to borrow money at reasonable rates of interest on today's money market, and will yield a fair return on the value of its property.

IT IS, THEREFORE, ORDERED That the application of Service Telephone Company for authority to adjust its rates and charges as shown in the schedule attached hereto and made a part hereof be, and the same is hereby, approved.

IT IS FURTHER ORDERED That Service Telephone Company be, and it hereby is, authorized to file with the Commission its tariff schedule of rates and charges herein approved, to become effective on billings rendered on and after June 1, 1967.

ISSUED BY ORDER OF THE COMMISSION.
This the 25th day of May, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. P-60, SUB 21

SERVICE TELEPHONE COMPANY
FAIR BLUFF, NORTH CAROLINA

APPENDIX

CLASS	APPROVED RATE
Business	
1-Party	$ 8.50
2-Party	6.50
4-Party	5.25
Rural Multi-Party	5.00
Extensions	1.75
Residence	
1-Party	$ 6.00
2-Party	5.00
4-Party	4.00
Rural Multi-Party	4.00
Extensions	1.25

DOCKET NO. P-37, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
The Purchase of Mooresville Telephone Company)
by Mooresville Telephone Company (1967), a)
Wholly-Owned Subsidiary of Mid-Continent) ORDER
Telephone Corporation)

The joint application, as amended, of Mooresville Telephone Company (Old Mooresville) and Mooresville Telephone Company (1967) (New Mooresville) filed on July 14,

1967, through counsel Pope and Brawley, Mooresville, North Carolina; and Woodson, Hudson and Busby, Salisbury, North Carolina, seeks approval by the North Carolina Utilities Commission (Commission) as follows:

1. That Old Mooresville be permitted to transfer and convey to New Mooresville its assets, obligations, and liabilities, consisting of telephone properties, operating rights, and other assets as well as its outstanding liabilities and New Mooresville be permitted to acquire such properties and liabilities in exchange for the transfer and delivery by Mid-Continent Telephone Corporation, an Ohio corporation (Mid-Continent), to Old Mooresville of 89,145 shares of the voting common stock of Mid-Continent;

2. That New Mooresville be granted a Certificate of Public Convenience and Necessity authorizing it to provide telephone service in the territory heretofore served by Old Mooresville; and

3. That New Mooresville be authorized to issue 4,792 shares of its common stock at a par value of $100.00 per share to its parent corporation Mid-Continent, for which no brokerage fees, commissions, or other fees shall be paid.

Subsequent to the filing of the application counsel for the parties have furnished to the Commission copies of newspaper accounts from the Mooresville Tribune reporting fully the proposed sale in the Town of Mooresville beginning on November 24, 1966, and subsequent newspaper accounts of said sale extending through June 22, 1967. Affidavits have been furnished from six people holding public, civic and business positions in Mooresville showing approval of the proposed sale. By written statements of counsel, treated herein as stipulations, Mid-Continent and New Mooresville will file a service agreement between Mid-Continent and New Mooresville by November 1, 1967, and any charges of Mid-Continent to Mooresville will be for services rendered and will be uniform with those to other subsidiaries of the Mid-Continent system. The affidavit of Sherlie M. Suther, Jr., a director and manager of Old Mooresville, states that the officers and the directors of New Mooresville shall not receive any salaries or fees other than nominal ones, except the manager of the telephone company. The amendment to the petition filed on August 14, 1967, stipulates that there shall be no brokerage fees, commissions, or other fees paid for the issuance of 4,792 shares of common stock of New Mooresville.

The Commission has given consideration to the application, as well as other information, and makes the following

FINDINGS OF FACT

1. Old Mooresville is a North Carolina corporation with its principal place of business located at 236 West Center Avenue, Mooresville, North Carolina; is engaged in the

business of furnishing telephone services to the public in the Counties of Iredell and Rowan, North Carolina; is a public utility as defined in Article I of Chapter 62, General Statutes (G.S. 62-1 - G.S. 62-4) of North Carolina is subject to the jurisdiction of the North Carolina Utilities Commission.

2. New Mooresville was incorporated under the laws of the State of North Carolina on July 12, 1967, with its principal place of business in Mooresville, North Carolina, and is a wholly-owned subsidiary of Mid-Continent Telephone Corporation, whose general office is in Elyria, Ohio.

3. Mid-Continent operates telephone exchanges in the States of Ohio, New York, Pennsylvania, South Carolina, and elsewhere, together with exchanges in North Carolina.

4. The Commission has on file in Docket No. P-50, Sub 26, an application and order approving the acquisition of 80% of the outstanding common stock of Thermal Belt Telephone Company, Tryon, North Carolina, by Mid-Continent; in Docket No. P-62, Sub 20, an application and order approving the acquisition of all of the capital stock of Eastern Rowan Telephone Company, Inc., Granite Quarry, North Carolina, by Mid-Continent; and in Docket No. P-18, Sub 12, an application and order approving the acquisition of all the capital stock of Denton Telephone Company, Denton, North Carolina, by Mid-Continent, all of which said applications and orders consider and approve exchanges of stock and resulting acquisitions of control of the respective North Carolina telephone companies by Mid-Continent, as will appear of record in said cases; that certain facts found there by the Commission are applicable here and support the proposed action in this matter; that Mid-Continent is, therefore, already subject to the jurisdiction of this Commisison under applicable law.

5. That the information available to the Commission is that Mid-Continent is an experienced holding company and includes management personnel who are experienced in operation of independent telephone companies.

6. Old Mooresville has agreed to convey and New Mooresville has agreed to acquire the telephone properties, operating rights and other assets, obligations, and liabilities of Old Mooresville in exchange for the transfer and delivery by Mid-Continent to Old Mooresville of 89,145 shares of voting common stock of Mid-Continent, said transfer and conveyance to take place at such time and place as may be mutually agreed upon by the parties, but in no event later than September 30, 1967, and subsequently thereto Old Mooresville will be dissolved, all as more fully described in the Plan of Reorganization of Mooresville Telephone Company dated as of November 9, 1966, a copy of which is attached to the application in this proceeding.

7. Upon dissolution of Old Mooresville, the holders of common stock of Old Mooresville then outstanding shall receive in exchange for each share of such stock in cancellation and redemption thereof five (5) shares of the voting common stock of Mid-Continent; provided, however, that no fractional share certificates for common stock of Mid-Continent will be issued, and a bank designated by Old Mooresville and satisfactory to Mid-Continent will act as agent for any stockholders of Old Mooresville entitled to an interest in a fractional share of common stock of Mid-Continent to dispose of such fractional share interest by purchase or sale.

8. The stockholders of Old Mooresville have duly authorized the transfer and delivery of the assets of Old Mooresville pursuant to the Plan.

9. The acquisition of Old Mooresville by New Mooresville entails the transfer of assets and liabilities to the latter in exchange for shares of Mid-Continent, such transfer does not in any manner alter or change the operation of the telephone system, and the determination of its rates would not be affected by such transfer; that any changes in rates would have to be filed with this Commission and any contracts between New Mooresville and the parent corporation, or its affiliates, would have to be filed for approval of this Commission, and the Commission and the subscribers of New Mooresville would have ample opportunity, through public notice and hearing, of a full investigation of any such changes.

CONCLUSIONS OF LAW

The 1963 Public Utilities Act applies to any stock transfer which might result in a transfer of control of the franchise in North Carolina as follows:

> "G.S. 62-111. Transfers of franchises; mergers, consolidations and combinations of public utilities. - (a) No franchise now existing or hereafter issued under the provisions of this chapter other than a franchise for motor carriers of passengers shall be sold, assigned, pledged or transferred, nor shall control thereof be changed through stock transfer or otherwise, or any rights thereunder leased, nor shall any merger or combination affecting any public utility be made through acquisition or control by stock purchase or otherwise, except after application to and written approval by the Commission, which approval shall be given if justified by the public convenience and necessity. Provided, that the above provisions shall not apply to regular trading in listed securities on recognized markets."

In addition to the above provisions, the 1963 Public Utilities Act provides as follows:

"G.S. 62-110. Certificate of convenience and necessity. - No public utility shall hereafter begin the construction or operation of any public utility plant or system or acquire ownership or control thereof, either directly or indirectly, without first obtaining from the Commission a certificate that public convenience and necessity requires, or will require, such construction, acquisition, or operation: Provided, that this section shall not apply to construction into territory contiguous to that already occupied and not receiving similar service from another public utility, nor to construction in the ordinary conduct of business."

These sections provide that the Commission shall approve the transfer if justified by the public convenience and necessity. The ownership of applicant by its stockholders is a matter of private property law except to the extent that it is affected by the public interest as a public utility, and unless some cause is shown therefor, the sale or transfer by private individuals which does not affect the rates or service of the public utility should not be enjoined. The Commission's investigation into this application discloses no grounds for denying the application and discloses no way in which the public interest of the consuming and using public in North Carolina will be materially or adversely affected. Based upon the application and the investigation of the Commission, the Commission is of the opinion and so concludes that the public convenience and necessity will not be affected by the transfer and that, therefore, the same meets the tests prescribed by G.S. 62-111 hereinabove quoted.

The Commission further concludes that, due to the parent corporation relationship resulting from such transfer, Mid-Continent Telephone Corporation would become a public utility under the jurisdiction of the Commission within the definition of the 1963 Public Utilities Act as follows:

"G.S. 62-3. Definitions. - (23)c. The term 'public utility' shall include all persons affiliated through stock ownership with a public utility doing business in this State as parent corporation or subsidiary corporation as defined in G.S. 55-2 to such an extent that the Commission shall find that such affiliation has an effect on the rates or service of such public utility."

IT IS, THEREFORE, ORDERED THAT:

1. Old Mooresville be and it is hereby authorized to convey and transfer its assets, liabilities, and obligations and New Mooresville is permitted to acquire such assets, liabilities, and obligations in exchange for the delivery by Mid-Continent to Old Mooresville of 89,745 shares of the Common Stock of Mid-Continent, all as more fully described in the application.

2. A certificate of public convenience and necessity is granted to Mooresville Telephone Company (1967), thereby authorizing it to own and operate the telephone properties heretofore served by Mooresville Telephone Company, and including therein all rights, privileges, powers, immunities, and permits of every kind whatsoever now in force and effect and heretofore granted to Old Mooresville, said certificate to become effective upon the closing date. This order shall, for all practical purposes, constitute such certificate of public convenience and necessity.

3. New Mooresville shall continue in effect Old Mooresville's schedule of rates and charges and service regulations now in effect until changed by authorization of the Commission.

4. That New Mooresville is authorized to issue 4,792 shares of common stock at par value of $100.00 per share to Mid-Continent as parent corporation in exchange for the assets of Old Mooresville received on the books and records of New Mooresville and that no brokerage fees, commissions, or other fees shall be paid for the issuance of said common stock of New Mooresville.

5. No contracts for compensation for services from Mid-Continent, its subsidiaries or affiliates to New Mooresville or vice versa, shall be valid or operative, nor shall any compensation be paid by New Mooresville to Mid-Continent, its subsidiaries, or affiliates for any services, until such contracts or amounts are filed with or reported to and approved by the Commission under the provisions of G.S. 62-153.

6. New Mooresville shall file, and keep on file, with this Commission its current charter, shall duly designate its process officer in this State, shall make annual reports to this Commission of the same nature and type made by operating utilities in this State.

7. New Mooresville shall within a period of thirty (30) days following the completion of the transaction authorized herein, file with the Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted, and shall establish its books in accordance with the pro forma balance sheet attached to the Petition updated to said closing date, with a copy of said opening book entries to be filed with said report, and shall maintain such books in accordance with the uniform system of accounts prescribed by this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. P-58, SUB 59

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application for approval of the	) ORDER APPROVING
acquisition of the assets of the	) TRANSFER AND
Cooleemee Telephone Company by	) GRANTING
Western Carolina Telephone Company	) CERTIFICATE

BY THE COMMISSION: The joint Petition of Western Carolina Telephone Company, Weaverville, N.C. (hereafter called "Western"), and The Cooleemee Telephone Company, Cooleemee, N.C. (hereafter called "Cooleemee"), seeks authorization for Western to acquire the assets of Cooleemee and Western seeks a certificate of public convenience and necessity to operate the telephone facilities of Cooleemee in the service area heretofore served by Cooleemee in Davie and Rowan Counties, North Carolina, in accordance with an agreement between said two companies by which Western will issue 6,738 shares of its common stock to its parent corporation, Continental Telephone Corporation, in exchange for 12,500 shares of the common stock of Continental Telephone Corporation and will transfer said 12,500 shares of common stock of Continental Telephone Corporation to Cooleemee for all of the assets of Cooleemee, and Western will assume the debts of Cooleemee.

The Commission has given consideration to the joint Petition and to the operating reports of Western and Cooleemee attached thereto and to the Agreement and Plan of Reorganization dated December 19, 1966, between Western and Cooleemee, as attached to said Petition, and the Commission having further considered such official records, documents and reports on file with the Commission from Western and Cooleemee, makes the following

FINDINGS OF FACT

1. Western Carolina Telephone Company is a North Carolina corporation, with its principal place of business in Weaverville, N.C., and 84.3% of its stock owned by its parent corporation, Continental Telephone Corporation, a Delaware corporation, with its principal office in St. Louis, Missouri. Western, among other things, owns and operates telephone exchanges in the State of North Carolina, serving 17,074 telephone in eleven towns and extending over a large territory in the western part of North Carolina. It is a public utility as defined in the Public Utilities Act of North Carolina and is subject to the jurisdiction of the North Carolina Utilities Commission and operates under a franchise from the Utilities Commission.

2. The Cooleemee Telephone Company is a North Carolina corporation with its principal office in Cooleemee, N.C., and operates a telephone system in the counties of Davie and Rowan, N.C., serving 813 telephone stations in said

territory. It is a public utility as defined in the Public Utilities Act of North Carolina and is subject to the jurisdiction of the North Carolina Utilities Commission and operates under a franchise of the Utilities Commission.

3. That the Petitioners Western and Cooleemee have entered into an agreement under the terms of which Cooleemee agrees to sell all of its assets, reserving only sufficient funds to pay accounting and attorney's fees in connection with the sale of its assets and its subsequent dissolution to Western. Western in turn agrees to assume all obligations and liabilities of Cooleemee as set forth in the contract.

4. That under the contract Western will acquire 12,500 shares of Continental Telephone Corporation capital stock having a par value of One Dollar ($1.00) per share in exchange for 6,738 shares of Western capital stock having a par value of Five Dollars ($5.00) per share, and in turn exchange the 12,500 shares of Continental stock so acquired to Cooleemee for its assets as set forth in the contract. In effect the common shares of Western so issued at book value will equal the book value of the common shares of Cooleemee, with both book values being computed as of June 30, 1966, in accordance with the Agreement.

5. Western is in a position financially by reason of its personnel and by reason of its experience to furnish adequate and sufficient telephone facilities to the territory now served by Cooleemee.

6. That the Petitioners represent and allege that they believe it to be for the best interests of the customers now served by Cooleemee to approve the acquisition of Cooleemee assets by Western and the undertaking by Western of the responsibility for maintaining and establishing adequate facilities and service in the Cooleemee territory.

CONCLUSIONS OF LAW

G.S. 62-111 provides that the Commission shall approve the transfer of a utility franchise if justified by the public convenience and necessity. The ownership of a public utility is a matter of private property law except to the extent that it is affected by the public interest as a public utility. Cooleemee is a small telephone utility company in a predominantly rural territory which is now developing industrially. By the agreement of sale, its owners evidence their desire to terminate their operation of this telephone utility. It would be in the public interest for this telephone system to be owned and operated by personnel with the experience and financial ability to furnish adequate and sufficient telephone facilitites to a growing service area. The Commission finds no grounds for denying the Petition with the provision that the Cooleemee exchange is operated as a separate exchange under the rates and tariffs of Cooleemee. The Commission concludes that the

Petition should be approved with this provision that the investment in plant and the operating statistics of the Cooleemee service area be kept separate from the investment and operation of the other exchanges of Western, and that the Cooleemee exchange be operated as a division of Western Carolina, with separate books, records and operating statistics and that Cooleemee local and general exchange tariffs and rates remain in effect with no changes in rates.

IT IS, THEREFORE, ORDERED:

(1) That the Petition for approval of the issuance of 6,738 shares of common stock of Western to its parent Continental in exchange for 12,500 shares of Continental, and the delivery of said 12,500 shares of Continental to Cooleemee for the assets of Cooleemee, be and the same is hereby approved, subject to the provisions hereinafter set forth, and subject to all provisions of North Carolina private corporate law.

(2) That Western is hereby authorized to purchase the assets of Cooleemee and to assume the liabilities of Cooleemee as set forth in the Contract and Agreement attached to the Petition herein, and said Agreement is approved subject to the provisions hereinafter set forth.

(3) That Western is hereby granted a certificate of public convenience and necessity to furnish telephone service in the service area now served by Cooleemee with the provision that the said territory and the assets acquired for operation there shall be operated as a separate division of Western Carolina, with separate books, records and operating statistics, and that Western shall maintain Cooleemee local and general exchange tariffs and rates in said Cooleemee service area, with no changes in rates.

(4) That upon consummation of the transfer of the assets of Cooleemee in exchange for the shares of stock as herein authorized the parties shall promptly confirm in writing to the Commission the date on which the consummation has actually taken place and Western shall file with the Commission its adoption notice adopting the local and general exchange tariffs and rates of Cooleemee for application in the Cooleemee service area and shall furnish the Commission for its approval the accounting entries for acquisition of said assets and the establishment of said Cooleemee service area as a separate operating division of Western Carolina Telephone Company.

The hearing set for February 17, 1967, is hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

DOCKET NO. P-7, SUB 397

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Carolina Telephone and Telegraph Company)
for Authority to Issue and Sell Securities) ORDER

HEARD IN: The Commission's Hearing Room, Old YMCA Building, Raleigh, North Carolina, on December 21, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott (presiding) and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., and Clawson L. Williams, Jr.

APPEARANCES:

For the Petitioner:

Herbert H. Taylor, Jr.
Taylor and Brinson
Attorneys at Law
P.O. Box 308, Tarboro, North Carolina 27886

For the Commission's Staff:

Edward B. Hipp
Commission Attorney
North Carolina Utilities Commission
P.O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: This cause comes before the Commission upon a Petition of Carolina Telephone and Telegraph Company (Petitioner), filed under date of December 6, 1967, through its Counsel, Herbert H. Taylor, Jr., Tarboro, North Carolina, wherein authority of the Commission is sought as follows:

> To issue and sell (a) not to exceed a total of $22,629,600 principal amount of Convertible Subordinated Debentures due January 15, 1988; and (b) in conversion thereof, pursuant to the terms expressed therein and in the Indenture with North Carolina National Bank, Trustee, an initial number of shares of Common Capital Stock to be determined pursuant to said Indenture or such other number thereof as shall be issuable from time to time pursuant to adjustments provided by the terms of said Indenture, substantially upon the terms and for the purposes therein set forth.

PETITIONER is a North Carolina corporation with its principal place of business located at 122 East Saint James Street, Tarboro, North Carolina; is engaged in the business of furnishing communications services, mainly local and toll telephone service, in forty-one counties in the eastern part of North Carolina; is a public utility as defined in Article

I of Chapter 62, General Statutes (G.S. 62-1 - G.S. 62-4) of North Carolina and is subject to the jurisdiction of the North Carolina Utilities Commission.

PETITIONER'S witness Fowler represents that the demand for new telephone service and upgraded service has been exceedingly strong during the last decade and that in order to keep pace with the demand for service, it is necessary to constantly expand telephone plant and facilities. It is further represented that at October 31, 1967, Petitioner had outstanding an aggregate of $20,800,000 in short-term indebtedness to banks and financial institutions, the proceeds of which have heretofore been used for construction and improvements of its telephone plant and facilities, as shown in its Petition and Exhibits thereto, and that such borrowings are expected to continue both prior to and after completion of the proposed issue and sale of said Debentures. It is further represented that estimated expenditures for telephone plant and facilities will approximate $7,067,400 in the last two months of 1967 and about $36,548,400 in the calendar year 1968.

PETITIONER represents that it now proposes, subject to approval of the Commission, to issue and sell, under subscription rights to its existing shareholders in the ratio of $100 principal amount thereof for each thirty-five (35) shares held on the record date, $22,629,600 principal amount of Convertible Subordinated Debentures due January 15, 1988, at a subscription price to be fixed at or near 100% principal amount of the Debentures shortly preceding the offering, and with the interest rate, conversion ratio into Common Capital Stock and redemption features to be likewise fixed shortly preceding the offering. It is further represented that Petitioner proposes to enter into an underwriting agreement with a group of investment bankers, for whom Kidder, Peabody & Co., Incorporated, will act as representative, under which, upon expiration of the Rights, such underwriters will purchase, subject to certain conditions, all Debentures unsubscribed at the expiration of the subscription period, at the subscription price.

PETITIONER further represents that the estimated expenses of issue, including registration of the offering under the Federal Securities Act of 1933, as amended, exclusive of underwriting commissions, are approximately $125,000. Petitioner further represents that the underwriting commissions, which will depend upon the amount of Debentures purchased by the underwriters through exercise of Rights and the number of Debentures unsubscribed for by others at the close of the subscription period, as well as upon the subscription price, would approximate a minimum of $226,296 and a maximum of $396,018. It is further represented that the net proceeds from the sale of the Debentures will be applied to a reduction of the amounts owing by Petitioner on its short-term borrowings.

From evidence induced at the hearing, a review and study of the Petition, its supporting data and other information on file with the Commission, the Commission is of the opinion and so finds that the transaction proposed in the Petition is:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

THEREFORE, IT IS ORDERED That Carolina Telephone and Telegraph Company be, and it is hereby, authorized, empowered and permitted under the terms and conditions set forth in the Petition:

To issue and sell (a) not to exceed a total of $22,629,600 principal amount of Convertible Subordinated Debentures due January 15, 1988; and (b) in conversion thereof, pursuant to the terms expressed therein and in the Indenture with North Carolina National Bank, Trustee, an initial number of shares of Common Capital Stock to be determined pursuant to said Indenture or such other number thereof as shall be issuable from time to time pursuant to adjustments provided by the terms of the said Indenture, substantially upon the terms and for the purposes therein set forth.

IT IS FURTHER ORDERED That the net proceeds derived from the sale of said Debentures shall be devoted to the purpose set forth in the Petition.

IT IS FURTHER ORDERED That Petitioner supply this Commission with one (1) copy of the Indenture with North Carolina National Bank, Trustee, the prospectus and the underwriting agreement when such are available in final form.

IT IS FURTHER ORDERED That Petitioner shall file with this Commission, in the future, a notice of negotiations of short-term bank notes, date of maturity, rate of interest, principal amount, and setting forth the specific application of such loans as to items of equipment to be purchased, location of installations and beginning and estimated completion dates of installation. Such report shall be filed within thirty (30) days of issuance of such notes.

IT IS FURTHER ORDERED That Petitioner shall not consummate the sale authority herein granted until it has obtained a

Supplemental Order substantially approving (a) the subscription price at which the proposed offering of the Debentures will be made; (b) the interest rate thereon; (c) the conversion rate thereof (including the initial number of shares of Common Capital Stock to be reserved therefor); and (d) the redemption terms thereof. The Commission reserves the authority to hold further hearings in the matter if in the opinion of the Commission such is necessary.

IT IS FURTHER ORDERED That this proceeding be and the same is continued on the docket of the Commission without day for the purpose of such further action as may be deemed expedient when the Petitioner shall have advised the Commission, either orally or otherwise, of (a) the final terms listed in (a) through (d) of the preceding paragraph; (b) the minimum and maximum underwriting commissions resulting from its negotiations with the underwriting group; and (c) the estimated net proceeds to the Petitioner; provided, that nothing in this order shall be construed to deprive this Commission of any of its regulatory authority under the law.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-58, SUB 65

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Western Carolina Telephone Company)
for Authority to Issue and Sell 10,000 Shares of) ORDER
Preferred Stock)

This cause comes before the Commission upon an Application of Western Carolina Telephone Company (Petitioner), filed under date of September 25, 1967, through its Counsel, Van Winkle, Walton, Buck and Wall, Asheville, North Carolina, wherein authority of the Commission is sought as follows:

> To issue and sell to an institutional investor 10,000 shares of preferred stock for the sum of one million dollars ($1,000,000), which stock will bear cumulative dividends at the rate of 6-1/4% per annum.

PETITIONER represents that it is a corporation duly organized and existing under the laws of the State of North Carolina, with its principal office and place of business at 15 South Main Street, Weaverville, North Carolina, and that it is a public utility owning and operating telephone communications systems in certain counties within the State

of North Carolina by virtue of permits and certificates of convenience and necessity granted by this Commission.

PETITIONER represents that it now proposes, subject to authorization by this Commission, to issue and sell 10,000 shares of its Preferred Stock, by means of a negotiated transaction to an institutional investor, for the aggregate sum of one million dollars ($1,000,000).

PETITIONER further represents that an amendment to the Applicant's charter authorizing the issuance of the preferred stock was adopted at a meeting of the Applicant's stockholders held on September 15, 1967.

PETITIONER further represents that the preferred shares will be nonrefundable prior to October 1, 1977, by other borrowings, otherwise callable at specified rates during prescribed bands of years. The shares will provide a sinking fund to be established at the rate of 2% per annum commencing October 1, 1968, and will provide that additional preferred shares may be issued only if the pro forma debt and preferred stock of the company is 70% or less of total capitalization and if the pro forma ratio of interest and dividend coverage is at least 1.75 in any twelve (12) consecutive months out of the preceding fifteen (15) months.

PETITIONER further represents that the dividends on said preferred shares shall be cumulative with certain restrictions placed on common stock dividends based on stock equity ratio. The preferred shares, in addition provide for the election of a majority of the Board of Directors in the event four (4) dividend payments or any one (1) sinking fund payment is in arrears.

PETITIONER further represents that the cost of the issuance and sale of such securities shall be less than $10,000. Petitioner is now obligated on open, short-term notes in the approximate amount of $3,150,000, which monies have been borrowed and used for the purpose of expanding and improving facilities, and in order for Petitioner to continue to maintain its credit and provide for future improvement of its facilities, it is necessary that the short-term notes incurred be reduced.

From a review and study of the Application, and its exhibits and supporting documents, and other information on file with the Commission, and after due investigation by the Commission of the purposes and uses of the proposed issue, and the proceeds thereof, the Commission is of the opinion and so finds that such is:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

THEREFORE, IT IS ORDERED That Western Carolina Telephone Company, the Petitioner, be and it hereby is authorized, under the terms and conditions and in the manner set forth in the application and its supporting exhibits and supporting documents:

To issue 10,000 shares of its Preferred Stock, 6-1/4% Series, of the par value of $100 per share and of the aggregate par value of $1,000,000, and to consummate the sale of such shares for cash in the aggregate sum of one million dollars ($1,000,000) to an institutional investor.

IT IS FURTHER ORDERED That the proceeds derived from the sale of the shares authorized herein shall be devoted to the purposes set forth in the application.

IT IS FURTHER ORDERED That Petitioner shall file with the Commission in the future, notice of negotiation of short-term bank notes, as to date of note, date of maturity, rate of interest, principal amount and setting forth the specific application of such loans as to items of equipment to be purchased, location of installation and beginning and estimated completion dates of installation. Such report shall be filed within thirty (30) days of the issuance date of such notes.

IT IS FURTHER ORDERED That Petitioner, within a period of thirty (30) days following the consummation of the sale of said 10,000 shares of Preferred Stock, 6-1/4% Series, shall file with the Commission, in duplicate, a verified report setting forth the terminal results of said sale as recorded on its general books of account.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of October, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-58, SUB 65

BIGGS, COMMISSIONER, DISSENTING: This matter was considered solely upon the application filed herein, and the exhibits attached thereto, which application is not sufficient for me to make the findings required by G.S. 62-161(b). I feel that a more detailed showing concerning the expenditure of the funds involved in the proposed issue

ought to be made and that it is not enough to merely state that the short-term indebtednesses to be partially satisfied by this issue were created in order to expand and improve the applicant's various telephone facilities. I do not doubt that the applicant may be able to sustain its need for these funds, but I do not feel that is has done so by its present showing. I therefore respectfully dissent from the entry of an order permitting the issue of these securities.

M. Alexander Biggs, Jr., Commissioner

DOCKET NO. P-7, SUB 386

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Carolina Telephone and Telegraph Company,)
Investigation of Requested Increase of)
Daily Guarantee of Revenue from Local) ORDER
Messages for Semi-Public Telephone Service)

HEARD IN: The Hearing Room of the Commission, Temporary Offices, Corner Edenton and Wilmington Streets, Raleigh, North Carolina, on November 17, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

Herbert H. Taylor, Jr.
Attorney at Law
Taylor & Brinson
P.O. Box 308, Tarboro, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Raleigh, North Carolina

WILLIAMS, COMMISSIONER: On July 24, 1967, the Commission received a letter from Carolina Telephone and Telegraph Company with revised tariff sheets attached thereto and identified as Fourth Revised Sheet 1, Section 10 of the General Exchange Tariff with an effective date of September 1, 1967, requesting approval of a revision in daily guarantee of local message revenue for semi-public telephone service from the applicable monthly business rate for a particular exchange less fifty cents (50¢), divided by thirty to one and one-half the applicable monthly business individual rate for the particular exchange, divided by

thirty. On September 15, 1967, Carolina Telephone and Telegraph Company filed new copies of said tariff sheets to extend the effective date until September 22, 1967. Carolina Telephone and Telegraph Company did not submit cost information to support its reason for proposing to increase said rate. The Commission being of the opinion that this matter is of public interest, that the company's request should be supported by cost data, said tariff filing was suspended until March 1, 1968, and set for hearing on Friday, November 17, 1967, at 10:00 a.m. with the burden on Carolina Telephone and Telegraph Company to show that said increase in rate is just and reasonable, and an Order to that effect was entered on September 21, 1967.

At the hearing on November 17, 1967, the Applicant offered testimony and exhibits in support of its tariff filings which tend to show that there is a higher cost of providing semi-public telephone service as opposed to regular flat rate business service; that the average in-plant investment in coin telephones, per unit, is $204.93 as opposed to average in-plant investment in regular business type telephones of $37.22, the additional investment required in coin type telephones being $167.71 per unit.

The evidence further tends to show that by reason of increased maintenance, collection and accounting expenses, the average monthly excess cost of providing semi-public telephone service as compared to regular flat rate business service is $6.28.

This evidence was not controverted by the Commission Staff, and we, upon consideration of the evidence, are of the opinion, find and conclude that the involved tariff filings are just and reasonable and should be approved and allowed to become effective as of January 1, 1968, and further that the Order of Investigation and Suspension, dated September 21, 1967, should be vacated.

We find that, by comparison with comparable individual business line service, semi-public telephone service costs a sufficient additional amount to provide to entitle Applicant to the additional revenue sought by these tariff filings.

It should be stated that it was stipulated and agreed at the hearing with the consent of the Commission that the Applicant be allowed to make certain clarifying amendments to its tariff, said amended tariff to be received as a late-filed exhibit, and applicant duly submitted said amended tariff on November 27, 1967.

IT IS, THEREFORE, ORDERED that the amended tariff filings of the Applicant in this docket be, and the same are, approved and allowed to become effective January 1, 1968, and Applicant is directed to revise said tariff accordingly.

IT IS FURTHER ORDERED that the Order of Investigation and Suspension of this tariff entered in this docket, dated

September 21, 1967, he and the same is hereby vacated and dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of December, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-29, SUB 48

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Petition of Mrs. Porter Tuttle, et al., for telephone service from Oldtown Telephone System, Inc.'s exchange at King, North Carolina (Lee Telephone Company)	) RECOMMENDED ORDER

HEARD IN: The Mount Olive-Capella Community Building, Highway 66, Stokes County, North Carolina, on August 1, 1967, at 9:30 a.m.

BEFORE: Chairman Harry T. Westcott and Commissioner John W. McDevitt

APPEARANCES:

For the Complainants:

Richard E. Stover
Attorney at Law
King, North Carolina
For: Mrs. Porter Tuttle, et al.

For the Interveners:

L.H. Van Noppen
Attorney at Law
Danbury, North Carolina
For: E.B. Tedder
R.W. Boles
T.A. Bennett, Jr.
Roger Covington
Ira Tedder
Robert Ayers
Daisy Kiser
Lester Bennett

For the Respondents:

Richard G. Long
Burns, Long & Wood
Attorneys at Law

Roxboro, North Carolina
For: Lee Telephone Company

Duane T. Swanson
Attorney at Law
P.O. Box 900, Lincoln, Nebraska 68501
For: Lee Telephone Company

R. Kason Keiger
Attorney at Law
403 Pepper Building
Winston-Salem, North Carolina
For: Oldtown Telephone System, Inc.

WESTCOTT, CHAIRMAN: The Commission received a petition showing the signatures of thirty-one (31) persons in the Boyles Chapel area of Stokes County asking for a change in the boundary line between the Walnut Cove telephone exchange service area of Lee Telephone Company (hereinafter referred to as Lee) and the King exchange service area of Oldtown Telephone System, Inc. (hereinafter referred to as King), so that petitioners who reside in the service area of Lee may receive service from King. The Commission arranged an informal conference with all interested parties and afforded petitioners and the telephone companies time in which to confer and negotiate in an effort to settle the matter in controversy without formal hearing. Having been advised that the matter could not be resolved without formal hearing, the Commission treated the petition filed as a complaint, and by order dated May 30, 1967, set public hearing at the above-captioned time and place.

Notice of the purpose, time and place of hearing was published in The Danbury Reporter, a newspaper published in the City of Danbury, Stokes County, North Carolina, for two successive weeks commencing with the 20th day of July, 1967, and in the Winston-Salem Journal, a newspaper published in the City of Winston-Salem, Forsyth County, North Carolina, on July 19 and July 26, 1967. Hearing was held as scheduled.

The evidence of record tends to show that Lee extended its services from its Walnut Cove telephone exchange into the Mount Olive-Capella area in 1951 at the request of citizens of said community; that multi-party service was requested and rendered at that time; that approximately twenty-two telephones are now in service through Lee's facilities in the Boyles Chapel community.

It is deemed appropriate to list the names of witnesses testifying in support of the change in the boundary line. Mrs. Porter Tuttle has had Lee telephone service since 1951 and desires access to King and Winston-Salem. Mr. Robert Robertson does not have a telephone, works in Winston-Salem, and desires a King telephone which has extended area service to Winston-Salem. Arthur Moorefield does not have a telephone and is not sure at this time that he would take

one if available. Mrs. Donnie Dunivant, daughter of Mrs. Porter Tuttle, has a Lee telephone, works in Winston-Salem, and desires King and Winston-Salem telephone service. Mr. R.W. Boles, supermarket operator at Boyles Chapel, has a Lee telephone. His only objection is that it is necessary to pay toll to Winston-Salem or King. Mrs. Judson Covington has a Lee telephone and would like toll-free service to Winston-Salem, Rural Hall and King. Mrs. Jack Stone has Lee service; would like toll-free Winston-Salem service; objects to a 10-party line and the requirement of a $25 deposit required for installation in her mobile home. Mr. Earl Hall owns a store in the King service area and a home in the Lee service area, the boundary line separating the two buildings; he does not have a telephone in either but uses a King pay station located near his store; he has never applied for a telephone from King or Lee, and has no use for a Lee telephone. Mr. E.B. Tedder has a Lee telephone and wants service to King and Winston-Salem. Mr. Harold Gravitt has a Lee telephone, requested Lee service and wants extended area service to King and Winston-Salem. Mrs. D.C. Taylor has a home and a store, both of which have Lee service. Mr. Ira Tedder has a Lee telephone and wants a Lee telephone. He does not object to extended area service to King and Winston-Salem. Mr. Robert Ayers, pastor of Quaker Gap Church, has approximately 50 percent of his congregation in each service area. Mr. Roger Covington has a business telephone in the King area and a home telephone in the Lee area, wants both and would like extended area service from Lee to King.

A review of Complainants' Exhibit 1 indicates that those who have Lee service and who desire to keep it are interspersed along Highway 66 and its intersecting roads. Complainants all reside immediately along Highway 66 and its intersecting roads. Oldtown Telephone System, Inc., through its King exchange offers toll-free service to the exchange in Winston-Salem operated by Southern Bell Telephone and Telegraph Company (hereinafter referred to as Bell). Lee has multi-party service available and agrees to render any class of service requested into the area in question through its proposed Quaker Gap exchange. Lee has purchased a lot upon which it proposes to erect a central office building at Quaker Gap where it proposes to offer 1-, 2-, and 4-party service to the present subscribers and to all new subscribers in the Boyles Chapel community and which will have extended area service to its Walnut Cove and Madison exchanges. Lee agrees to negotiate with Oldtown Telephone System, Inc., for extended area service into its King exchange and with Bell for extended area service into its Winston-Salem exchange from said Quaker Gap exchange and is awaiting the decision of the Commission in this docket to determine whether or not it should invest its capital in the Quaker Gap exchange for the purpose of rendering service to present and future customers in the Boyles Chapel area.

Oldtown Telephone System, Inc., objects to the change in the boundary line to include the Boyles Chapel community,

for that it has engineered and constructed its facilities at King to serve the area heretofore authorized by this Commission.

FINDINGS OF FACT

1. Lee Telephone Company is a Virginia corporation authorized to render telephone service in that area of North Carolina set forth in boundary maps filed with and approved by this Commission on March 23, 1955, and in Docket No. P-100, Sub 6, in a General Order of this Commission dated May, 1956.

2. Lee has purchased land and agrees to construct a new central office building to serve the area embraced in the instant complaint.

3. To require Lee to remove its facilities from the area now served would result in a loss in investment of properties heretofore constructed for the purpose of serving customers who requested service from Lee.

4. To require Oldtown to serve those customers in the Boyles Chapel community desiring King service and to allow Lee to continue serving those requesting and desiring Lee service would result in a duplication of facilities, which is not considered a sound and economical regulatory practice.

5. A new exchange located in the Quaker Gap community designed to render 1-, 2-, and 4-party service with a reasonable adjustment in mileage charges should be installed with dispatch to render adequate service to the residents of the Boyles Chapel community, and the same will be hereinafter ordered.

CONCLUSIONS

It has not been the policy of this Commission to require a telephone company to extend facilities into the exchange area of another telephone company and serve customers or patrons in the other company's service area and at the same time require the company's service area that is being invaded to continue service to customers in the same area, resulting in a paralleling and duplicating of facilities by the two companies. To require a boundary line change as requested by the Complainants invades the territorial integrity of the company's investment required for such purpose. It is understandable that some customers may find it more advantageous to have service through an adjacent exchange than from the one where they actually reside. This is especially true in instances where the rates in adjacent exchanges may be lower or the calling scope greater, or where the service permits a much larger toll-free calling scope. At the same time other customers desire to retain the service they have. A change in the boundary line

results only in satisfying one group and dissatisfying another.

The instant complaint is not one from people who reside in an unserved area. There have been times and there may be other times where no service at all is provided by a telephone company authorized to provide service in a given area and where it is reasonable and feasible to authorize and require a telephone company to change a boundary line in order to serve an unserved area. To require one telephone company to invade an area of another telephone company where service is being rendered is to destroy the integrity of boundary lines and create an intolerable situation throughout the industry, one which the Commission will find it impossible to effectively regulate and will find it impractical to refuse to grant the requests of other applicants for the same type of service under the same circumstances. In this connection we call attention to the language used by the North Carolina Supreme Court in Utilities Commission v. Telephone Company, 267 N.C., at page 271:

> "There is, however, inherent in this requirement the concept that, once a certificate is granted which authorizes the holder to render the proposed service within the geographic area in question, a certificate will not be granted to a competitor in the absence of a showing that the utility already in the field is not rendering and cannot or will not render the specific service in question."

Upon the record of evidence in this case, the Hearing Commissioners cannot find that Lee is not rendering and will not render service to Complainants.

It is our desire that telephone customers, where possible and practical, seek out and demand telephone service of their choosing; however, when this results in the duplication of facilities, invasion of territorial integrity, erosion of existing investment, the total body of consumers served by the telephone industry must be considered. We therefore conclude and hold that the evidence in this case does not justify changing the boundary line in the area now served by Lee's Walnut Cove exchange and proposed to be served by its Quaker Gap exchange so as to allow certain residents to be served by the King exchange of Oldtown Telephone System, Inc., for that it is made to appear in this proceeding that what a majority of the Complainants seek is toll-free service not only to King but to Winston-Salem.

IT IS, THEREFORE, ORDERED That the request of Complainants in this proceeding to require the boundary line of Lee Telephone Company to be changed so as to permit the King exchange of Oldtown Telephone System, Inc., to serve the area now served by Lee Telephone Company in the Boyles Chapel community be, and the same is hereby, denied.

IT IS FURTHER ORDERED That Lee Telephone Company proceed with dispatch to establish its proposed new exchange at Quaker Gap and render to the citizens of the Boyles Chapel community adequate and efficient telephone service at reasonable zone rates.

IT IS FURTHER ORDERED That Lee Telephone Company proceed to negotiate with Oldtown Telephone System, Inc., for the establishment of extended area service with its King exchange, and negotiate with Southern Bell Telephone and Telegraph Company for the establishment of extended area service between its Quaker Gap exchange and the exchange of Southern Bell Telephone and Telegraph Company at Winston-Salem, and report its findings to this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-29, SUB 50

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Lee Telephone Company: Request for approval)
of Tariff with less than Statutory Notice) ORDER

BY THE COMMISSION: On September 19, 1967, Lee Telephone Company filed an Original Sheet 11, Section 17, of its General Exchange Tariff and requested, by covering letter, approval of filing on less than statutory notice. The said tariff provides speaker-microphone service primarily for communication between schools and students who are confined to their homes, hospitals or other locations. Lee Telephone Company states that it has a firm order to provide speaker-microphone service for a schoolboy who is confined to his home and needs to begin schoolwork.

Upon consideration of the circumstances and conditions relied upon and considering that rates in said tariff are identical with speaker-microphone service rates previously approved in another proceeding, the Commission is of the opinion that the covering letter should be considered as an application for authority to file this tariff on less than statutory notice; that the request should be granted and the tariff be received as filed to become effective on September 27, 1967.

IT IS, THEREFORE, ORDERED that said tariff is hereby approved to become effective on September 27, 1967.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-58, SUB 64

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition by Joe Green, et al., for telephone)
service in the Weaverville Exchange of) ORDER
Western Carolina Telephone Company)

BY THE COMMISSION: On May 9, 1967, some seventeen (17) residents of the Jupiter Community area in Madison County adjoining the Buncombe County line petitioned the Commission for telephone service through the Weaverville Exchange of Western Carolina Telephone Company. Petitioners are now in the Marshall Exchange area of Westco Telephone Company, the wholly-owned subsidiary of, and managed and operated by, Western Carolina Telephone Company.

After negotiations among the parties and investigation by the Commission's staff, a conference was scheduled among all parties and the Commission for 7:30 p.m. on July 13, 1967, in Asheville, North Carolina. At the call of the conference, petitioners and representatives of the telephone companies were present and acknowledged receipt of notice of the conference. During the conference, all parties waived further notice and hearings in the matter and agreed the Commission might take the matter under advisement and make its decision on the basis of the statements and representations made at the conference without necessity of formal hearing.

Having fully considered all matters and things developed at the conference and it appearing to the Commission that:

1. Petitioners are citizens and residents of the unincorporated community of Jupiter, on State Roads 1576 and 1587 in Madison County, North Carolina.

2. All Petitioners are within a relatively isolated area which is now within the territory designated as the service area of Westco Telephone Company. There are no telephone subscribers or telephone service lines for subscribers actually in the area where Petitioners reside.

3. Westco Telephone Company can reasonably serve Petitioners within 45-60 days from the date application is made. This service would connect Petitioners to the Marshall (Madison County) Exchange office of Westco Telephone Company, which office is approximately eight (8) miles northwest of the community of Jupiter.

4. Western Carolina Telephone Company can reasonably serve Petitioners within one (1) year from the date application is made. This service would connect Petitioners to the Weaverville (Buncombe County) Exchange office of Western Carolina Telephone Company, which office is approximately eight (8) miles southeast of the community of Jupiter.

5. Notwithstanding that they can obtain telephone service from the Marshall Exchange of Westco Telephone Company earlier than from the Weaverville Exchange of Western Carolina Telephone Company and probably at lower rates, Petitioners will not apply for the Westco service and will not take that service if offered. Petitioners prefer Western's service, will make application if authorized to do so and will take Western's service if offered to them.

6. Petitioners have the great majority of all their business, social, cultural, church, and medical contacts with and through the Weaverville Exchange of Western Carolina Telephone Company. For years their children have attended school in Buncombe County, although they reside in Madison County. The area depends largely upon poultry raising for a livelihood, and the producers have their financial affiliations, obtain their poultry feed, and market their poultry in the Buncombe County area. The natural topography of the area causes its people to gravitate in their interests toward Buncombe County rather than toward Madison County. Petitioners have very few contacts in Marshall.

It further appearing, and the Commission so concluding, that Western will gain approximately twelve (12) subscribers if the boundary is changed whereas Westco will gain none if the boundary is not changed, that no duplication of facilities or economic waste will result from a change in the boundary line to permit Western to serve the unserved area in question, that Petitioners' entire community of interest is toward the area now served by Western, and that a suitable natural boundary for a new division of territories in the area exists along Ivy River;

IT IS, THEREFORE, ORDERED:

1. That Westco Telephone Company and Western Carolina Telephone Company each be, and they hereby are, authorized and directed within thirty (30) days of the date this order issues to file with this Commission for approval a revised service area map to incorporate all Petitioners hereinafter named within the Weaverville Exchange service area of Western Carolina Telephone Company and generally following the eastern bank of Ivy River, provided that no subscriber now receiving telephone service from the Marshall Exchange office of Westco Telephone Company shall be included in the Weaverville service area as revised.

2. Petitioners, Joe Green, Weldon Briggs, Herman Brazil, Ted Hunter, Rex Hunter, Ervin Roberts, Hal Houston, J.C. Bradley, Lester Roberts, Mildred Maxwell, Viking Corporation, George Green, Bruce Maxwell, Gerald Fisher, Clell Fisher, Sergeant Houston, Paul Houston, T.E. Turner, Lawrence Briggs, all of Route 2, Marshall; Byron Roberts and Joe Roberts, both of Route 3, Weaverville; and other persons within the area herein described are authorized forthwith to make formal application to Western Carolina Telephone Company for telephone service through its Weaverville Exchange.

3. That, upon application by Petitioners, or any of them, to Western Carolina Telephone Company for telephone service from its Weaverville Exchange pursuant to applicable Commission Rules and the companies' tariffs, Western Carolina Telephone Company shall receive and process said applications and proceed to render the service applied for at the earliest practicable date.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of July, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. A-20

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of The petition of the Town of Dunn, North Carolina, for a certificate of public convenience and necessity under the provisions of Article 3, Section 40-53 of the General Statutes of North Carolina, for the construction of certain sewer and sewage disposal facilities	ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

HEARD IN: Hearing Room of the Old YMCA Building, Raleigh, North Carolina, on June 7, 1967, at 2:00 p.m.

BEFORE: Commissioners Sam O. Worthington, Clarence H. Noah, and Thomas R. Eller, Jr.

APPEARANCES:

For the Petitioner:

Everette L. Doffermyre
Town Attorney
Town of Dunn
Dunn, North Carolina

No Protestants.

WORTHINGTON, COMMISSIONER: Under date of May 4, 1967, the Town of Dunn (petitioner) petitioned the North Carolina Utilities Commission (Commission) for a certificate of public convenience and necessity for the construction of sewer and sewage disposal facilities. The Commission, upon receipt of the petition, scheduled hearing thereon and required petitioner to give public notice of the time, place and purpose of such hearing by publication of such notice in a newspaper having general circulation in Dunn and Harnett County, North Carolina. Petitioner caused such notice to be published in The Daily Record, a newspaper published in Dunn and having general circulation in Dunn and throughout Harnett County, and furnished affidavit of publication of such notice showing the notice was published in The Daily Record on the dates of May 18, and 25, 1967. Petitioner also, through the office of the Sheriff of Harnett County, gave personal notice of the time, place and purpose of the hearing to certain individuals who petitioner thought should have personal notice; namely J.R. Burnette, Route 5, Dunn, North Carolina; Mrs. A.T. Hinson, Route 5, Dunn, North Carolina; Allen W. Westbrook, Erwin, North Carolina; and E.T. West, Erwin, North Carolina, notice being served on these individuals on May 17, 1967.

Hearing was held on June 7, 1967, as scheduled. Petitioner was present with witnesses and was represented by counsel. No formal protest was filed prior to the date of hearing and no one appeared in the capacity of protestant at the hearing. However, Mrs. A.T. Hinson and J.R. Burnette, each of whom had been personally served with a notice of the time and place for the hearing, appeared and requested the opportunity to make a statement. Each was sworn and testified, the sum total of this testimony being that they own land either adjacent to or in the immediate vicinity of the location of the sewage disposal facility which petitioner proposes to enlarge and that the petitioner has not offered them a satisfactory and reasonable price for their lands which petitioner has sought to acquire.

The evidence offered substantiates and justifies the following

FINDINGS OF FACT

1. The Town of Dunn is a municipal corporation and a "state public body" under the statutory definition in Section 40-32, of Article 3 of Chapter 40 of the General Statutes. It has a population of approximately 7,000 people, owns and operates its sewer mains and facilities for the collection of sewage and also owns and maintains a sewage disposal facility, located approximately one mile outside of the corporate limits of the town, which it proposes to enlarge and for which it needs additional land. Petitioner also owns and operates other sewage disposal

facilities outside the corporate limits of the town but in a different direction from the town.

2. The State Stream Sanitation Committee, which has the duty and responsibility of guarding against pollution of streams in the State, has made an examination and investigation of the sewage disposal facilities of the petitioner, found them inadequate, and has required that petitioner improve and enlarge its sewage disposal unit by the installation of what is referred to as a trickle filter system or unit.

3. Petitioner has engineered and designed facilities in accordance with the requirements of the State Stream Sanitation Committee, and which the State Stream Sanitation Committee has approved, estimated to cost approximately $500,000.

4. Petitioner has applied to and received from the United States Government an outright grant of 30 percent of the cost of improving the sewage disposal facility and which is now available to apply on the cost of such construction.

5. Petitioner furnishes sewage collection and disposal service to the citizens of the town at one price and in some instances to people outside the town but at a somewhat greater cost.

6. Adequate, sufficient and properly designed and constructed sewage disposal facilities are essential to the welfare, comfort, health and safety of the citizens of the town and the people of the entire community where such treated sewage is released into streams of the State.

7. Funds for the construction of the facilities, in addition to those provided by the United States Government, will be raised through the sale of revenue bonds.

8. The Town Commissioners have passed a resolution authorizing and directing the Town Attorney to apply for and obtain a certificate of public convenience and necessity in accordance with the provisions of G.S. 40-30, entitled "Public Works Eminent Domain Law."

CONCLUSIONS

We think the petition in this matter, construed liberally, constitutes an adequate application or petition to this Commission for a certificate of public convenience and necessity to construct additional and improved sewage disposal facilities by the Town of Dunn. In this connection the Town of Dunn owns, maintains and operates its sewer system for the collection and disposal of sewage. It has at least two sewage disposal units. Both are outside the corporate limits of the town. They are in different directions or opposite directions from the town.

The disposal unit which the town proposes to enlarge and improve has been found to be inadequate by the State Stream Sanitation Committee. Some of the people who live in the immediate vicinity of the unit indicate very strongly that strong and obnoxious odors emanate from the unit, resulting in annoyance and discomfort to those living in the area. The purpose of the enlargement and improvement is an effort to relieve this situation by a more adequate and efficient treatment of the sewage before releasing it. It is essential that the town provide facilities for the better treatment of the sewage at this disposal unit. This is necessary for the general protection of streams into which the treated sewage may make its way and is essential for the health and welfare of the people throughout the community.

In order to finance this necessary facility the town has applied to the United States Government and has received an outright grant (no part of this grant will have to repaid by the town) in an amount equal to 30 percent of the entire cost of the construction. The town will finance the rest of the cost through the issuance of revenue producing bonds.

Petitioner proceeds on the theory that this is a public works project under the terms and provisions of G.S. 40-30 and that it is essential that it have a certificate of public convenience and necessity from this Commission by virtue of G.S. 40-53.

Whether this project is properly classifiable as a public works project we do not determine. We do conclude from the evidence in this case that it is necessary and essential that the Town of Dunn enlarge and improve the sewage disposal facilities at the point in question. We conclude that this enlargement and improvement, or this project, as such, is essential and necessary to the public health, safety and welfare. We also conclude that petitioner should be granted a certificate of public convenience and necessity for the construction of additional and improved sewage disposal facilities and to carry out the project which it is undertaking in the construction of additional and improved sewage disposal facilities.

IT IS, THEREFORE, ORDERED that the Town of Dunn be and it is hereby granted a certificate of public convenience and necessity for the project, consisting of additions to and improvement of its sewage disposal facilities, as described in its petition in this cause and as more particularly set forth in its testimony at the hearing.

IT IS FURTHER ORDERED that this order, within itself, shall, for all practical purposes, constitute such certificate of public convenience and necessity to the Town of Dunn.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of June, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. W-223

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Havelock Development) RECOMMENDED
Corporation, Havelock, North Carolina,) ORDER
for a Certificate of Public Convenience) GRANTING
and Necessity and for Approval of Rates) CERTIFICATE

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, on January 11, 1967

BEFORE: John W. McDevitt, Hearing Commissioner

APPEARANCES:

For the Applicant:

John D. Warlick, Jr.
Attorney at Law
Ellis, Hooper, Warlick & Waters
313 New Bridge Street
Jacksonville, North Carolina

For the Commission Staff:

Edward B. Hipp
General Counsel
304 State Library Building
Raleigh, North Carolina

McDEVITT, COMMISSIONER: On November 18, 1966, Havelock Development Corporation, Havelock Shopping Center, Havelock, North Carolina (hereinafter called "Applicant") filed with the North Carolina Utilities Commission (hereinafter called "Commission") an application for a certificate of public convenience and necessity for the purpose of owning, operating, and maintaining a water system to serve a certain residential subdivision as shown on a map attached to the application and commonly referred to as Westbrooke Subdivision in Craven County, North Carolina, approximately 1 1/2 miles northwest of Havelock on U.S. Highway 70, and for approval of certain rates and charges for such water service. By order of the Commission issued November 22, 1966, the matter was set to be heard at 2:00 p.m., on Wednesday, January 11, 1967, in the Hearing Room of the Commission, Raleigh, North Carolina.

Notice of the purpose, time and place of hearing was published on December 29, 1966, and January 5, 1967, in The Havelock Progress, a newspaper having general circulation of the area to be served by the applicant.

At the time and place set for hearing, the matter came on for hearing as above set forth. The applicant appeared with counsel. No protest was filed, nor was anyone present to protest the granting of the application.

In support of the application the registered engineer testified and offered exhibits as documentary evidence, among them being a map showing the area now served, a plan of the water system, a letter from the North Carolina State Board of Health signed by J.N. Jarrett, Sanitary Engineering Division, dated September 13, 1966, approving the plans for the proposed water system. The president of applicant then testified and offered additional exhibits setting forth the balance sheet of the applicant, a schedule of rates proposed to be charged, a schedule of the total investment in the water system proposed for the construction of the system and the Articles of Incorporation of the applicant.

Based upon the evidence in the record, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. That applicant is a North Carolina corporation, with its principal office and place of business in the Havelock Shopping Center, U.S. Highway 70, Havelock, North Carolina, and is duly authorized by its Articles of Incorporation for the business of operating and maintaining a water system.

2. That applicant has prepared plans and drawings and has arranged for the financing of construction of a water system which will initially serve 53 residential lots in Westbrooke Subdivision in Craven County and which will be expanded with the opening of the additional sections of Westbrooke Subdivision to serve a total of 395 lots when the development of this subdivision is completed.

3. That in said operation the water system will obtain water from deep wells and will maintain a water reserve and water pressure initially through a pneumatic tank of 3,000-gallon capacity and upon development of the entire subdivision will install an overhead tank of 75,000-gallon capacity, and upon completion of the overhead tank will have sufficient storage to supply fire hydrants in the Westbrooke Subdivision.

4. That Westbrooke Subdivision is being developed by the applicant and the applicant now owns the lands included in Section 1 of Westbrooke Subdivision and will operate the water system as a separate division of the applicant corporation and the applicant will own the lands upon which

the wells and distribution mains are located, which will be assigned to the water division.

5. That the rates which applicant proposes to charge its customers for water service are $4.00 minimum for the first 3,000 gallons per month and a graduated declining scale per additional 1,000 gallons of water as set forth in the schedule attached; that these rates are found to be just and reasonable rates for the initial operation of the water system and until such time as applicant may have more fully developed the revenue from said water system to determine the rate of return on the investment ultimately made; that the tap-on fee of $325.00 per lot will be treated by the applicant's water division as a contribution in aid of construction and is found to be just and reasonable under the circumstances of the development of Westbrooke Subdivision and will be collected only from the initial sale of lots by the applicant.

6. That the applicant has entered into a contract with Arthur Utilities Company for construction of the water distribution system and has a commitment for financing the system from a bank serving the Craven County area and the State Board of Health has approved the plans for the water system.

7. That the applicant is properly organized and is willing and able to operate the water system proposed and the president of the applicant has had experience in the operation of the existing water system in Havelock, North Carolina.

8. That the service proposed is in the public interest and that a certificate of public convenience and necessity authorizing applicant to construct, operate and maintain a water system, wells, pumps, mains, storage tank or tanks and distribution lines and to distribute and sell water to the public in the area set forth in Exhibit A attached to and made a part of the application should be issued.

CONCLUSIONS

The North Carolina Public Utilities Act provides that this Commission shall have general supervision over the rates, charges and service rendered by water companies, whose operations consist in selling of water to 25 or more residential customers (G.S. 62-32; G.S. 62-3 (23) a. 2.). While the applicant does not yet have 25 residential customers currently receiving water service, it does have 53 lots which are offered to the public for sale and upon which applicant and others are building or will build residential homes for sale with water service and the Commission concludes that the applicant has shown public demand and need for water service in the area and that it is in the public interest to grant a certificate of public convenience and necessity to the applicant for the construction and installation of this public utility plant. (G.S. 62-110).

The certificate should and does include the right to operate said system and to serve the public for compensation when 25 or more residential customers are placed in service by the water system.

A development such as the applicant must have water facilities to meet the demands of its present and prospective customers and residents-owners. Having considered the evidence and the above findings of fact, the Hearing Commissioner concludes and holds that a certificate of public convenience and necessity should be granted to Havelock Development Corporation as requested in its application in Docket No. W-223.

IT IS, THEREFORE, ORDERED:

1. That the application of Havelock Development Corporation, Havelock Shopping Center, U.S. Highway 70, Havelock, North Carolina, for a certificate of public convenience and necessity authorizing the construction of the water system and the sale and distribution of water in the area known as Westbrooke Subdivision of Craven County, located 1 1/2 miles northwest of the Town of Havelock on U.S. Highway 70, as more specifically shown on a map attached to the application as Exhibit A and introduced as evidence in this proceeding, be and the same is hereby approved and a certificate of public convenience and necessity therefore is hereby authorized and this Order shall constitute such certificate.

2. That the rates and charges proposed for services herein authorized and attached hereto as Appendix A of this Order be and the same are hereby approved and authorized and the applicant is directed to file promptly its tariff of rates and charges in accordance herewith.

3. That upon completion of the water system the applicant shall secure final approval of the completed system and quality of the water from the State Board of Health.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

APPENDIX A

WATER RATE SCHEDULE
Residential Service

RATE

Metered:

First 3,000 gallons per month	$ 4.00 (minimum)
3,000 gallons to 5,000 gallons	1.00 per thousand
5,000 gallons to 7,000 gallons*	.90 per thousand
7,000 gallons to 10,000 gallons	.75 per thousand
Over 10,000 gallons	.60 per thousand

TAP ON FEE: $325.00 per lot

*Corrected by Order in Docket No. W-223, dated February 1, 1967.

DOCKET NO. W-202
DOCKET NO. W-202, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Fred D. Rozzelle,	) ORDER GRANTING
Hickory, North Carolina, for a	) CERTIFICATE OF PUBLIC
Certificate of Public Convenience	) CONVENIENCE AND
and Necessity to operate water	) NECESSITY, APPROVING
systems in Catawba, Caldwell, and	) RATES, TERMINATING SHOW
Burke Counties in North Carolina	) CAUSE ORDER

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on September 30, 1965, at 9:30 a.m.

BEFORE: Commissioners Clarence H. Noah, R. Brookes Peters, and Sam O. Worthington, presiding

APPEARANCES:

For the Applicant:

Samuel D. Smith
Attorney at Law
103 1/2 First Avenue, N.W.
Hickory, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Raleigh, North Carolina

BY THE COMMISSION: On June 16, 1965, Fred D. Rozzelle (applicant), 1104 First Avenue, S.W., Hickory, North

Carolina, filed with the Utilities Commission an application for a Certificate of Public Convenience and Necessity in order that he might distribute and sell water to the public in 10 specified areas in Burke, Caldwell, and Catawba Counties. The applicant further requested approval of rates for water service in each of these subdivisions. The application was set for hearing and was heard in Raleigh, North Carolina, at 9:30 a.m. on the 30th day of September, 1965.

Based on the evidence adduced at the hearing and the official records of the Commission, the Commission makes the following

FINDINGS OF FACT

1. That Fred D. Rozzelle, an individual, 1104 First Avenue, S.W., Hickory, North Carolina, is providing water service in 10 areas and now seeks a Certificate of Public Convenience and Necessity for the construction, operation, and maintenance of these 10 water systems which are in Burke, Caldwell, and Catawba Counties, which systems are listed below and described on applicant's Exhibits A-1 through A-10.

Southern Height	Clearview Acres
Seitz Well	Subdivision II
Cloverdale Well	Ward Well
Snow-Creek Well	Shock Well
Clearview Acres	Huffman Well
Subdivision I	Lutz Well

2. That at the time of the hearing applicant had not obtained approval of these systems from the North Carolina State Board of Health and at the end of said hearing the Commission granted to applicant 60 days in which to obtain said approval. Various extensions of time were granted and efforts were made by the staff and the North Carolina State Board of Health in an attempt to get applicant to obtain these approvals with no success and that on November 10, 1966, the Commission in Docket No. W-202, Sub 1 issued a Show Cause Order as to why penalties should not be invoked for the applicant's failure to furnish approvals by the North Carolina State Board of Health and for the operation of water systems without a Certificate of Public Convenience and Necessity.

3. That by order issued January 10, 1967, the Commission rescheduled the hearing date in this docket and further incorporated into said order complaints for water service which have been received by the Commission from two groups of customers purchasing water in the Clearview Acres Subdivision I and the Clearview Acres Subdivision II.

4. That on February 1, 1967, a further order in this cause was issued by this Commission granting to the applicant additional time in which to carry out the

recommendations of the Commission Staff and the North Carolina State Board of Health in order to complete the necessary improvements required to satisfy the complaints received by the Commission.

5. That the Commission has now received the approvals for each of the 10 systems from the North Carolina State Board of Health.

6. That the Commission has received in tariff form rate schedules under which applicant proposes to charge for water service in the various subdivisions.

7. That the applicant has completed many of the recommendations from the North Carolina State Board of Health and those of the staff or is in the process of completing these recommendations.

8. That on March 18, 1967, the Commission received a report from the applicant advising that a new well has been drilled in the Clearview Acres Subdivision I and that it is in the process of being connected to said system; that a new pump has been purchased for the Shook Well and that he proposes to raise the well casing an additional 6 inches; that a new door and lock has been installed on well house on the wells supplying the Clearview Acres Subdivision II; that the well on Seitz Water System has been vented; that a well house will be built over the well in the Southern Height System; and that the applicant has submitted samples to the Laboratory of Hygiene as required by State law.

CONCLUSIONS

The applicant now has received approvals for all the systems from the North Carolina State Board of Health. He has completed or is in the process of completing the recommendations of the North Carolina State Board of Health and the staff with respect to additional improvements to his water system. The improvements made will satisfy the complaints filed by customers with the Commission. No further purpose can be accomplished by continuing the Show Cause Order.

It is, therefore, the opinion of this Commission that the Show Cause Order should be dismissed; that public convenience and necessity requires that a Certificate of Public Convenience and Necessity for the operation of the 10 water systems be granted; and the rates as filed should be authorized.

IT IS, THEREFORE, ORDERED that a Certificate of Public Convenience and Necessity be issued to Fred D. Rozzelle for the operation of the following water systems in Burke, Caldwell, and Catawba Counties which areas and location are more particularly described by maps filed by the applicant as applicant's Exhibits A-1 through A-10 and B: Southern Height, Seitz Well, Cloverdale Well, Snow-Creek Well,

Clearview Acres Subdivision I, Clearview Acres Subdivision II, Ward Well, Shook Well, Huffman Well, and Lutz Well.

IT IS FURTHER ORDERED that the rates and schedules attached hereto be and are hereby authorized for water service for the areas indicated on said tariffs.

IT IS FURTHER ORDERED that Fred D. Rozzelle shall file on one day's notice a schedule of rates as herein authorized.

IT IS FURTHER ORDERED that the applicant file a report within 60 days of the date of this order which report shall show the status of all the recommendations listed in the attachment to the Commission's order of February 1, 1967.

IT IS FURTHER ORDERED that the Show Cause Order issued by the Commission in Docket No. W-202, Sub 1 be and is hereby terminated and canceled.

IT IS FURTHER ORDERED that this order in itself shall constitute the Certificate of Public Convenience and Necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Mary Laurens Richardson, Chief Clerk

TARIFF

COMPANY Fred D. Rozzelle SYSTEM 1232 - 10th Street, N.E.
Hickory, North Carolina

SUBDIVISION(s) SERVED

Southern Height
Seitz Well
Cloverdale Well
Snow-Creek Well
Clearview Acres I
Clearview Acres II

WATER RATE SCHEDULE
Residential Service

RATE: Flat rate - $3.00 per month per customer.

CONNECTION CHARGES:

Clearview Acres Subdivision II.....None
Cloverdale Well and Snow-Creek Well.....$100.00
Southern Height and Seitz Well.....$150.00
Clearview Acres Subdivision I.....$200.00

RECONNECTION CHARGES:

N.C.U.C. Rule R7-20(f)	$4.00
N.C.U.C. Rule R7-20(g)	$2.00

BILLS DUE: Ten days after date rendered.

Issued by: _____ Effective: January 18, 1967
SIGNATURE OF OWNER

If a corporation, sign corporate name by authorized offical.

Issued to comply with authority granted by the North Carolina Utilities Commission in Docket No. W-202, Sub 1.

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TARIFF

COMPANY Fred D. Rozzelle SYSTEM 1232 - 10th Street, N.E.
Hickory, North Carolina

SUBDIVISION(S) SERVED

Shook Well, Hickory, N.C.
Huffman Well, Lenoir, N.C.
Lutz Well, Newton, N.C.

WATER RATE SCHEDULE
Residential Service

RATE: Flat rate - $2.00 per month per customer.

CONNECTION CHARGES:

Shook Well and Lutz Well....$100.00
Huffman Well.....$200.00

RECONNECTION CHARGES:

N.C.U.C. Rule R7-20(f)	$4.00
N.C.U.C. Rule R7-20(g)	$2.00

BILLS DUE: Ten days after date rendered.

Issued by: _____ Effective: January 18, 1967
SIGNATURE OF OWNER

If a corporation, sign corporate name by authorized official.

Issued to comply with authority granted by the North Carolina Utilities Commission in Docket No. W-202, Sub 1.

==========

TARIFF

COMPANY Fred D. Rozzelle SYSTEM 1232 - 10th Street, N.E. Hickory, North Carolina

SUBDIVISION(s) SERVED

Ward Well

WATER RATE SCHEDULE
Residential Service

RATE: Flat rate - $2.50 per month per customer.

CONNECTION CHARGES: $37.50

RECONNECTION CHARGES:

N.C.U.C. Rule R7-20(f)	$4.00
N.C.U.C. Rule R7-20(g)	$2.00

BILLS DUE: Ten days after date rendered.

Issued by: _____ Effective: January 18, 1967
SIGNATURE OF OWNER

If a corporation, sign corporate name by authorized official.

Issued to comply with authority granted by the North Carolina Utilities Commission in Docket No. W-202, Sub 1.

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DOCKET NO. W-229

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Western Utilities Corporation for a certificate of public convenience and necessity to own, maintain and operate water systems for sale and distribution of water to the public in a number of subdivisions in Stanly County near Locust, North Carolina, and for approval of rates	) ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AND ESTABLISHING RATES UNDER CONDITIONS AS SPECIFIED

HEARD IN: Commission Hearing Room, Raleigh, North Carolina, on June 14, 1967, at 9:30 a.m.

BEFORE: Commissioners Sam O. Worthington (presiding), Clarence H. Noah and Thomas R. Eller, Jr.

APPEARANCES:

For the Applicant:

Gerald R. Chandler
Attorney at Law
P.O. Box 704, Albemarle, North Carolina

For the Protestants:

R.L. Brown, Jr., and R.L. Brown III
Brown, Brown & Brown
Attorneys at Law
Corner Main and Second Streets
Albemarle, North Carolina
For: James D. Kennedy, C.W. Thomas and other citizens of Locust, North Carolina

For the Commission Staff:

Edward B. Hipp
General Counsel
North Carolina Utilities Commission
Raleigh, North Carolina

WORTHINGTON, COMMISSIONER: Application was filed with the North Carolina Utilities Commission (Commission) on February 16, 1967, by Western Utilities Corporation (applicant) seeking a certificate of public convenience and necessity authorizing it to own, maintain and operate water distribution systems and distribute and sell water to the public in subdivisions in Stanly County in and near Locust, North Carolina, named and designated as follows:

1. Western Hills Subdivision, Locust, North Carolina
2. Sherwood Park Subdivision, Locust, North Carolina
3. Barbara Ann Park Subdivision, Locust, North Carolina
4. One block of the Village or Town of Locust in the business area.

Applicant also seeks approval of rates to be charged for such service.

The Commission scheduled this matter for hearing with a provision that if no protest was filed within five days of the date named for hearing, the matter would be determined on the application and pertinent matters in the file of the Commission. Applicant was required to give notice to the people living in the subdivisions. Protest was filed by a number of people receiving service from applicant in these subdivisions. The date was postponed and hearing eventually held on June 14, 1967, in the Hearing Room of the Commission, Raleigh, North Carolina. Applicant was present with witnesses and counsel. Protestants were present with witnesses and counsel. Applicant and protestants both offered evidence and from the evidence so offered, the Commission makes the following

FINDINGS OF FACT

1. Western Utilities Corporation is a North Carolina corporation organized and existing under North Carolina law. It has installed and now has in operation water systems for the distribution and sale of water and is actively engaged in distributing and selling water to the people in the four subdivisions or areas above named. It has been engaged in this operation for some time and is actually selling and distributing water to more than 25 customers and is, therefore, under North Carolina law required to obtain a certificate of public convenience and necessity and operate under the jurisdiction of this Commission.

2. There is public need and demand for the distribution and sale of water in each of these subdivisions.

3. The systems which applicant has installed in these subdivisions are not constructed out of and with facilities adequate to meet the public need and in accordance with the requirements of the State Board of Health and they have not been approved by the State Board of Health.

4. Protestants do not protest against applicant furnishing the service. They simply protest applicant's failure to furnish an adequate supply of good, wholesome, usable water.

5. Applicant is financially able to render the service it seeks certificate for and is financially able to improve its present facilities and construct additional facilities that would enable it to furnish an adequate supply of good, wholesome water in these subdivisions.

6. The Staff of this Commission and the State Board of Health, which was represented and offered evidence at the hearing, in keeping with directions from the Commission, have since the hearing made a complete investigation of applicant's systems in the several subdivisions and have made recommendations setting forth a number of things that must be accomplished by applicant in order to meet requirements. These recommendations are in written form and will be attached to this order as Appendix A and Appendix B and applicant will be required to meet these requirements.

7. Rates sought by applicant in its application will be approved upon proper filing.

CONCLUSIONS

Applicant is already in the water business. It is serving a number of customers in each of the named subdivisions. It has wells, storage facilities and underground piping. The water from some of its wells is not good. Much of its underground pipe is too small. If applicant is going to distribute water as a public utility it must improve its facilites to the point where they will be adequate to meet

the public need. To require applicant to discontinue service pending improvement of its system would simply mean that the present customers would be without any water service. We conclude there is a public need for the sale and distribution of water in these subdivisions and that applicant should be granted a certificate of public convenience and necessity. We conclude further that such certificate should be granted but applicant must fully and completely as early as possible comply with the requirements set forth in the reports of the Commission's Staff and the State Board of Health as specified in Appendix A and Appendix B hereto attached, by which attachment they become an integral part of this order.

The Staff of this Commission, in conjunction with the State Board of Health, will keep in touch with applicant's operation at all times and keep the Commission advised as to what progress is made in compliance with specified requirements.

Applicant will report to the Commission within 90 days from the date of this order such progress as has been made and will thereafter report progress at the end of each 90-day period. Applicant will also move as fast as possible to put these systems in condition that will enable it to obtain approval from the State Board of Health.

IT IS, THEREFORE, ORDERED that applicant be and it is granted a certificate of public convenience and necessity to own, maintain and operate water distribution systems for the sale and distribution of water to the public in Western Hills Subdivision, Locust, North Carolina; Sherwood Park Subdivision, Locust, North Carolina; Barbara Ann Park Subdivision, Locust, North Carolina, and one block of the Village or Town of Locust. This order for all practical purposes shall constitute such certificate of public convenience and necessity.

IT IS FURTHER ORDERED that there be attached to this order as Appendix A and Appendix B reports of the Commission Staff and the State Board of Health of North Carolina as to what things are required to be done by applicant in order to make such water systems adequate to meet the public need.

IT IS FURTHER ORDERED that the Staff of this Commission keep in touch with the applicant's operation, use its best effort to have applicant fulfill the requirements set out in Appendix A and Appendix B and keep the Commission informed at all times of the progress being made.

IT IS FURTHER ORDERED that within 90 days from the date of this order applicant report fully to the Commission what has been accomplished in improving its facilities in keeping with the requirement of the Staff and the State Board of Health and it report progress thereafter at the end of each 90-day period and that these systems be improved to the extent that applicant will be able to obtain approval of the

State Board of Health for each of these systems as early as possible.

IT IS FURTHER ORDERED that applicant file proposed rates for service with the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of August, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk.

(SEAL)

NOTE: For Appendix A and Appendix B, see the official Order in the Office of the Chief Clerk.

DOCKET NO. W-222

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application for a Certificate of Public Convenience)
and Necessity for the Construction and Operation of)
Sewage and Water Systems, for Approval of Rates and) ORDER
Financing for Westwood Utility Company, Inc.)

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on November 3, 1966, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott and Commissioners Clarence H. Noah (presiding) and John W. McDevitt

APPEARANCES:

For the Applicant:

William E. Underwood, Jr.
Ervin, Horack, Snepp & McCartha
Attorneys at Law
806 East Trade Street
Charlotte, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
North Carolina Utilities Commission
Raleigh, North Carolina

NOAH, COMMISSIONER: The above-captioned matter comes before the North Carolina Utilities Commission for decision by an application filed by Westwood Utility Company, Inc. (applicant), on October 5, 1966, and as amended on November

3, 1966, after notice to the public and after public hearing.

Based on the evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1. Applicant is a corporation organized and existing under the laws of the State of North Carolina with authority to issue up to 100,000 shares of stock with a par value of $1 per share.

2. The principal office of the applicant is located in Suite 201, Wilder Building, Charlotte, North Carolina.

3. Applicant proposes to provide water and sewer service in an area located approximately two miles north of the City of Charlotte, adjacent to Interstate Highway 85. The area in which this service is provided is more particularly described in applicant's Exhibits B and B2.

4. The area as described above encompasses the Paw Creek Sanitary District which provides water and sewer service to approximately 120 customers in said district.

5. Paw Creek Sanitary District has petitioned the Board of County Commissioners, Mecklenburg County, for authority to dissolve the Paw Creek Sanitary District. More than 51 percent of the members of the Paw Creek Sanitary District have signed said petition.

6. Applicant proposes to supply water and sewer service to approximately 1,200 customers in the area for which this Certificate is requested and further will provide water and sewer service to the customers within the Sanitary District upon dissolution of said district. The initial section to be served will contain approximately 81 homes plus the 120 customers within the Sanitary District.

7. Applicant has investigated alternate means of providing water and sewer service through contacts with the City officials of Charlotte and the county authorities and that the service is not available through these means.

8. Applicant proposes to charge the following rates:

WATER AND SEWAGE RATE SCHEDULE

Residential Service

RATE

Metered:

		Per 100 Cubic Feet
First	3,300 Cubic Feet	.60*
Next	6,700 Cubic Feet	.48
Next	10,000 Cubic Feet	.40
Next	30,000 Cubic Feet	.30
Next	50,000 Cubic Feet	.24
All over	100,000 Cubic Feet	.19

*Minimum monthly charge of $2 each for water or sewer or $4 for both water and sewer.

SEWERAGE SERVICE CHARGE - 100% of the water charge.

TAP FEE - $500 for both water and sewer.

9. Applicant further proposes as a part of its agreement with the Sanitary District to continue the existing rates within the Sanitary District for a period of five years which are as follows:

First 3,500 gallons - $3 (minimum)
All over 3,500 gallons - 70 cents per thousand
Sewerage rate - 100% of the water bill

10. Applicant estimates new revenues for the years 1967, 1968, 1969, and 1970 to be $11,413 loss; $5,462 loss; $174: and $5,000, respectively.

11. Applicant has issued 25,000 shares of stock at $1 per share and has obtained $150,000, 25-year, 6% loan commitment from the Marsh Land Company.

12. Applicant proposes to construct initially the following facilities:

Sewage treatment plant	$110,000
Two lift stations	30,000
Water wells, tanks	20,000
Total	$160,000

13. Applicant has entered into a contract with the Realty Syndicate, Inc.; Builders Supply Company of Charlotte, Inc.; and Marsh Realty Company in which these companies will construct sewer trunk lines and water and sewer distribution lines within their respective property and will convey said property to applicant together with necessary easements. The contract further provides that applicant will receive land for the location of the sewage disposal plant, lift stations, and well sites.

14. These systems have been approved by the State Stream Sanitation Committee and the North Carolina State Board of Health.

15. The facilities as outlined in Exhibit 10 are adequate to meet the needs of the public for water and sewer service in the area to be served.

CONCLUSIONS

The area for which this certificate is sought contains approximately 1,000 acres in which there is now no water and sewer service except limited service in one small section available through the Paw Creek Sanitary District. There is proposed to be constructed approximately 1,200 residences in the area. Water and sewer service is not available to this area through the normal sources of the City of Charlotte or the Sanitary District. The soil in the area is such that wells and septic tanks could not meet the needs of the residents, and in fact most of the loaning agencies discourage this method of supplying water and sewer service. The Sanitary District's facilities are in need of substantial repairs and enlargement. The members of this Sanitary District are seeking to obtain their future service through Westwood Utility Company. In consideration for dissolving the legal entity of the Sanitary District and the applicant receiving assets of the Sanitary District, the applicant has agreed to furnish those customers within the District water and sewer service at the prevailing rate for a period of five years.

The Commission is of the opinion that public convenience and necessity requires the issuance of the certificate; that the rates as proposed as between the customers in the Sanitary District and those in the area that is proposed to be developed are not unduly discriminatory. The method of financing as proposed herein is adequate to meet the financial needs in the area.

IT IS, THEREFORE, ORDERED That a Certificate of Public Convenience and Necessity be, and is hereby, issued to Westwood Utility Company, Inc., to own, operate and construct water and sewer service in the areas delineated in Exhibits B and B2 attached to the application.

IT IS FURTHER ORDERED That applicant be, and is hereby, authorized to charge the rates herein proposed for the area outside the Sanitary District and is hereby authorized to charge the present rates to customers within the Sanitary District for a period of five years from date of acquisition of the Sanitary District properties.

IT IS FURTHER ORDERED That the applicant is hereby required to file tariff schedules with the Commission reflecting the above authorization to become effective on one day's notice.

IT IS FURTHER ORDERED That the method of financing herein proposed be, and is hereby, authorized.

IT IS FURTHER ORDERED That this order in itself shall constitute a Certificate of Public Convenience and Necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. W-186, SUB 39

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application for a Certificate of	) ORDER EXEMPTING
Exemption for Cape Hatteras Water	) PROPOSED OPERATION
Association, Inc., Dare County,	) FROM REGULATION AND
North Carolina, to Construct, Own,	) DISMISSING THE
and Operate a Water System	) APPLICATION

In an application filed with the North Carolina Utilities Commission (Commission) on September 5, 1967, Cape Hatteras Water Association, a nonprofit corporation, requested a Certificate of Exemption from jurisdiction by the Commission.

Based upon the application treated as an affidavit, the Commission makes the following

FINDINGS OF FACT

1. That the applicant is duly incorporated under the laws of North Carolina as a nonprofit organization.

2. That the applicant is proposing to construct and operate a water system to serve residents within the area as shown on the map marked Exhibit C. The proposed facilities are located in Hatteras Township, Dare County, and will supply the village of Buxton, Frisco, and Hatteras.

3. That the applicant has prepared detailed construction plans and specifications for its entire water system, and has applied to the Farmers Home Administration, Agency of the United States Government, for a loan to finance said construction and has further received a grant for a portion of that, pursuant to the Porge-Aiken Act.

4. That the applicant has elected officers and Board of Directors and has adopted bylaws.

5. Applicant proposes to confine its service entirely to its members and has entered into contracts with persons, firms, and corporations who will become members of the association.

6. Any person, firm, or corporation desiring service of the facilities of the applicant must apply for membership, pay a membership fee and enter into a contract with respect to such membership with the applicant.

7. Application to this Commission has been prompted mainly by the fact that same is required by the Farmers Home Administration from which it seeks to borrow funds.

8. Applicant does not propose to serve the general public, will not hold itself out to render service to the public, and will confine its service entirely to its members.

CONCLUSIONS

It is undisputed that applicant is neither a municipal corporation, political subdivision, nor public agency. It is plain that it will serve more than 25 residential customers. It is also clear that service to be provided will be for compensation. The applicant is not exempt from this Commission's jurisdiction as a matter of express statutory law. However, the Commission is of the opinion that the controlling question under the statutes is essentially one of fact: "Is the applicant holding itself out to furnish water service to the public for compensation?"

The Commission has found as a fact that applicant plans to operate a "private" water system. It does not plan to provide service to the public. It will serve only its members. Thus the Commission concludes that the operation as proposed and as presently limited by its articles of incorporation and bylaws does not bring the applicant within the definition of a public utility such as to require this Commission to exercise jurisdiction over it. Holding this position, the Commission points out that the applicant's status and its rates are controlled by its financing. Its rates are designed to amortize the capital loan funds committed to it. This is proper in a membership association since the ratepayer is also the owner, and he builds up his own equity thereby.

For the present the Commission considers that the applicant does not meet the statutory definition of a public utility such as to require its regulations by this Commission.

Should applicant's bylaws or its source of financing be changed, or should it actually hold itself out to serve the public in any way, the Commission shall consider further as to whether jurisdiction should be exercised.

Accordingly, IT IS ORDERED:

1. That the applicant is not subject to regulations as a public utility by the North Carolina Utilities Commission based on its present proposed operations;

2. That the application filed in this docket be, and the same is hereby, dismissed;

3. That this order shall constitute within itself a Certificate of Exemption, exempting the applicant from regulation as a public utility by the North Carolina Utilities Commission; and

4. That the proceedings in this docket be, and they are hereby terminated and this docket closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of September, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. W-80, SUB 12

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Waterco, Inc., for an Increase in) ORDER
its Rates and Charges)

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on January 4, 1967, at 10:00 a.m.

BEFORE: Chairman Harry T. Westcott and Commissioners Sam O. Worthington, Clarence H. Noah, and John W. McDevitt

APPEARANCES:

For the Applicant:

David H. Henderson
Henderson, Henderson & Shuford
Attorneys at Law
400 Law Building
Charlotte, North Carolina

For the Commission Staff:

Edward B. Hipp
General Counsel for the Commission
Raleigh, North Carolina

WESTCOTT, CHAIRMAN: Under date of November 2, 1966, Waterco, Inc. (applicant), Charlotte, North Carolina, filed an application with the North Carolina Utilities Commission (Commission) wherein it is requested that applicant be permitted to increase its rates for water furnished in the communities or developments which it serves; namely, Rolling Hills Estates, Wedgewood Estates, Country Club Annex, Sardis Hills, Oakdale Terrace, McClure Circle, Trexler Park, Suburban Heights, Holly Acres, and Beechbrook. The matter was set for formal hearing at the above-captioned time and place.

According to the evidence adduced, notice of the purpose, time and place of the hearing and a schedule of proposed rates was published in the Belmont Banner, a newspaper having general circulation in the Gaston County area served by applicant; in The Mecklenburg Times, a newspaper having general circulation in Mecklenburg County; in the Kernersville News, a newspaper having general circulation in the area served by applicant in Forsyth County; and in The Monroe Enquirer, a newspaper having general circulation in the area of Union County served by applicant. No one appeared in protest to the authority sought by the instant application.

The evidence further tends to show that the rates now in effect applicable to the service rendered by applicant, based on the calendar year 1965, fail to produce revenues sufficient to allow applicant to recover its cost of legitimate operating expenses and realize a rate of return on its investment devoted to public use. Applicant offers evidence in support of its allegation "That an increase in the Applicant's rates as herein requested is necessary in order to produce a fair return on invested and contributed capital and to permit the company to assume and continue to fulfill its obligations to provide potable water to its customers,..."; which evidence tends to show that applicant's present level of rates fails to provide funds for the employment of competent personnel, maintenance of accurate books and records, proper billing and bookkeeping, rendition of reasonable service, current maintenance of its systems, and provision for the contingencies of wear, tear, and ultimate replacement of such systems; and that its present financial situation has tended to become more acute as the costs and expenses of operation of the company continue to increase in today's economy.

The Commission's Accounting Staff offered for the record an exhibit depicting an examination of applicant's books and records for the test period ending December 31, 1965, and a projection of revenues and expenses for a future period, which substantially confirms the operating data offered in evidence by applicant.

In consideration of the evidence adduced by applicant and by the staff of this Commission, the Commission makes the following

FINDINGS OF FACT

1. That notice of the date, time and place of hearing set for this application, together with the proposed schedule of rates, was duly published in newspapers having general circulation in the area served by the water systems of applicant involved in this proceeding.

2. That present rates and charges heretofore approved by this Commission for application by applicant fail to produce sufficient revenue to allow applicant to meet its legitimate operating expenses and produce a reasonable return on the fair value of its property.

3. That the rates proposed by applicant in this proceeding, when related to the experience of applicant for the test period ending December 31, 1965, would have produced revenues which would have enabled applicant to realize net operating income for return in the amount of $47 after giving effect to operating revenue deductions, including depreciation and taxes, and after giving effect to the elimination of revenues in the amount of approximately $875 derived from 22 unmetered customers which are no longer served by applicant but by the City of Charlotte or private sources.

4. That the original cost of properties devoted to serving the public by applicant is $157,975.

5. That when applying net operating income in the amount of $47 to the original cost of properties, a zero return on investment results.

6. That, after deducting from the original cost investment in water utility plant, reserves for depreciation in the amount of $16,991, contributions in aid of construction in the amount of $7,125, and contributed water systems, the latter for which applicant asserts it has a fee simple deed, under the proposed rate applicant would have realized a .23% rate of return.

CONCLUSIONS

The North Carolina Public Utilities Law provides that the Commission shall have general supervision over the rates charged and service rendered by water companies whose operations consist of selling and distributing water to 25 or more residential customers. Applicant received its charter in January, 1962, to engage in the selling and distribution of water to areas certificated by this Commission. The furnishing and distribution of an adequate and safe water supply to the public is essential and necessary. Applicant has been furnishing water at a deficit rate of return on its investment. The increases sought are fair and reasonable and should be allowed. We therefore conclude and hold that the schedule of rates as proposed by applicant in this proceeding should be approved and the

application of same made effective on all bills rendered on and after February 1, 1967.

Based on the foregoing findings and conclusions, the Commission enters the following

IT IS, THEREFORE, ORDERED That the application of Waterco, Inc., to put into effect rate schedules as set forth in Appendix A attached hereto and made a part hereof, be and the same is hereby approved, the same to become effective on all bills rendered on and after February 1, 1967.

IT IS FURTHER ORDERED That applicant forthwith file with this Commission its tariff of rates and charges and any service regulation it proposes to use in accordance with the provisions of this order.

IT IS FURTHER ORDERED That a copy of this order be transmitted to the applicant, to the attorney for the applicant, and to the General Counsel for this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of January, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

APPENDIX A
Docket NO. W-80, SUB 12
WATERCO, INC.
Charlotte, North Carolina

RESIDENTIAL SERVICE

RATES

First	3,000 gallons, or less, per month	3.50 (min. bill)
Next	5,000 gallons per month, per 1,000 gals.	.90
Next	12,000 gallons per month, per 1,000 gals.	.80
All Over	20,000 gallons per month, per 1,000 gals.	.70

DOCKET NO. W-190, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
The joint application for approval of transfer of water distribution system properties of Greenview Ranches by G. Allie Moore and his wife, Mary L. Moore, to Aqua Co. and for a certificate of public convenience and necessity to Aqua Co. to own, maintain and operate water distribution system; for approval of rates; and for authority to issue stock in payment of purchase price	) RECOMMENDED ORDER PERMITTING TRANSFER AND GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

HEARD IN: Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on November 17, 1966

BEFORE: Commissioners Sam O. Worthington and Thomas R. Eller, Jr.

APPEARANCES:

For the Applicants:

W.T. Joyner, Jr.
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney

No Protestants.

WORTHINGTON, COMMISSIONER: G. Allie Moore and his wife, Mary L. Moore, together with Aqua Co. (applicants), filed joint application with the North Carolina Utilities Commission (Commission) on October 6, 1966, seeking authority for the transfer of the water distribution system and properties of Greenview Ranches to Aqua Co.; and for a certificate of public convenience and necessity to Aqua Co. authorizing it to own, maintain and operate said water distribution system and distribute and sell water to the public in what is known as Greenview Ranches Subdivision, located about seven miles north of Wilmington, in New Hanover County, North Carolina; for approval of rates; and for authority to issue stock in payment of purchase price.

Hearing was scheduled and the applicants were required to and did give public notice in accordance with Commission requirements of the time and place for such hearing by publishing notice thereof once a week for two weeks on the

dates of November 4 and 11, 1966, in Star-News Newspapers, Inc., a newspaper published in Wilmington, North Carolina, and having general circulation in the territory where Greenview Ranches Subdivision is located.

No one intervened in the proceeding and no protest was filed within the time provided for protesting in the notice, and no protestants appeared at the hearing held in the Hearing Room of the Commission, Library Building, Raleigh, North Carolina, on Thursday, November 17, 1966. Applicants were present with witness and counsel and offered testimony at the hearing, from which testimony, together with exhibits, including maps and financial statement, the Commission makes the following

FINDINGS OF FACT

1. Aqua Co. is a North Carolina corporation, with its principal office in Wilmington, North Carolina, and holds a certificate of public convenience and necessity to own, maintain and operate a water distribution system in Southgate Subdivision, Craven County, North Carolina. It has also been granted authority by Recommended Order to own, maintain and operate a water distribution system in the Crestwood Subdivision, in New Hanover County, North Carolina.

2. All the common stock of Aqua Co. is owned by applicants, G. Allie Moore and his wife, Mary Moore, who also own the water distribution system in Greenview Ranches Subdivision in New Hanover County, consisting of water mains, two wells, land upon which the wells are located, and other distribution facilities necessary to the distribution and sale of water in this subdivision, and are actually serving approximately five customers.

3. G. Allie Moore and wife, Mary Moore, have entered into a contract with Aqua Co. in which they have agreed to sell the Greenview Ranches Subdivision water distribution system and properties to Aqua Co., and Aqua Co. has in turn agreed to buy these properties and operate them to the end that an adequate supply of water is furnished residents of the subdivision.

4. The State Board of Health has investigated the system and approved it with certain provisos:

(a) The new system and all appurtenances shall be disinfected with chlorine in such a manner as to produce a residual of 50 ppm. The chlorinated water is then to stand for 24 hours; and at the end of this period, the chlorine residual should be 10 ppm. minimum.

(b) The well casing shall be properly vented. This vent shall be screened.

(c) The electrical cable leading to the submersible pump shall be properly sealed at the sanitary seal on top of the well casing.

5. Applicants propose to apply the same rates and charges in the operation of the Greenview Ranches Subdivision as Aqua Co. has been authorized and is using and applying in its Southgate Subdivision system in Craven County.

6. Greenview Ranches Subdivision consists of a sizable tract of land which has been divided into lots and will eventually have 150 or more customers.

7. G. Allie Moore and wife, Mary Moore, have expended approximately $50,000 in acquiring and constructing the Greenview Ranches system, and when fully completed the system will cost approximately $100,000.

8. The purchase price is fixed at the reasonable replacement cost of the system as of the date of the transfer to Aqua Co. and is to be paid in common stock to be issued by Aqua Co.

9. The Accounting Staff of this Commission and the officials of Aqua Co., G. Allie Moore being the President and his wife, Mary Moore, being the Secretary, have not as of this date determined the reasonable replacement cost of the system, and stock will not be issued by Aqua Co. until this has been determined, and issuance of stock will be authorized in a subsequent order.

10. Aqua Co. is financially able to own, maintain and operate the water system in Greenview Ranches Subdivision.

11. There is a public need for adequate water distribution facilities and service in such subdivision.

CONCLUSIONS

G. Allie Moore and his wife, Mary Moore, own all the stock in Aqua Co., a North Carolina corporation holding a certificate from this Commission to operate a water distribution system in Southgate Subdivision in Craven County, and Aqua Co. is actively engaged in distributing water in such subdivision.

G. Allie Moore and his wife, Mary Moore, own the water distribution system which they have constructed in Greenview Ranches Subdivision in New Hanover County. This system is actually engaged in distributing water to a few customers and consists of two wells, the land upon which the wells are located, water mains and distribution facilities, which have been inspected by the State Board of Health and approved with provisions set forth in the Findings of Fact.

It is proposed that G. Allie Moore and his wife convey the Greenview Ranches system to the corporation in which they own all the stock and that Aqua Co. issue its Stock to G. Allie Moore and Mary Moore in an amount equal to the reasonable replacement cost of the system as of the date of purchase.

Aqua Co. desires that its certificate be amended so as to empower and authorize it to render service to the public in the Greenview Ranches Subdivision under the same rates and same conditions as it is authorized to render service in the Southgate Subdivision in Craven County.

The Commission concludes that public convenience and necessity requires a water distribution system in the Greenview Ranches Subdivision and that the system, which has been constructed by G. Allie Moore and wife, Mary Moore, is adequate for the rendering of service in such subdivision. It also concludes that Aqua Co. is able to own, maintain and operate said system in the public interest and that the public interest will not be adversely affected by the sale of this system to Aqua Co. by G. Allie Moore and wife, Mary Moore.

The Commission concludes that the rates and charges, which Aqua Co. is authorized to apply in its Southgate operation in Craven County, are reasonable rates and charges to be applied in its operation of the Greenview Ranches system, such rates and charges being set forth in Appendix A hereto attached.

The Commission concludes that Aqua Co. may, when the reasonable replacement cost of the property being transferred is determined, issue its stock in such amount to G. Allie Moore and wife, Mary Moore. Such stock shall not be issued until the reasonable replacement cost has been determined by both Aqua Co. and G. Allie Moore and wife, Mary Moore, in cooperation with the Accounting Staff of this Commission and order has been issued by this Commission specifically authorizing the issuance of such stock. In the meantime certificate of public convenience and necessity is being issued authorizing the transfer of the property and the operation of said system by Aqua Co.

IT IS, THEREFORE, ORDERED that Aqua Co. be and it is hereby authorized to acquire the water distribution system and properties, consisting of water mains, pumps, land, facilities and all properties of said system now used in distributing water in the Greenview Ranches Subdivision in New Hanover County, at the reasonable replacement cost of said properties as of the date of the transfer.

IT IS FURTHER ORDERED that Aqua Co. be and it is hereby granted a certificate of public convenience and necessity to own, maintain, and operate the water distribution system in Greenview Ranches Subdivision in New Hanover County, and

this order shall, for all practical purposes, constitute such certificate of public convenience and necessity.

IT IS FURTHER ORDERED that no stock shall be issued by Aqua Co. to anyone in payment of the purchase price of said properties until Aqua Co. and G. Allie Moore and wife, Mary Moore, in cooperation with the Accounting Staff of this Commission, have determined the reasonable replacement cost of the property as of the date of the transfer and order has issued from this Commission authorizing the issuance of stock in such amount.

IT IS FURTHER ORDERED that upon the filing by Aqua Co. of the schedules of rates and charges for service to be rendered at the Greenview Ranches Subdivision, as set forth in Appendix A hereto attached, same will be approved by this Commission on one day's notice.

IT IS FURTHER ORDERED that Aqua Co. immediately comply with and fulfill the provisos specified by the State Board of Health and that the Water Engineer of this Commission check into this situation to see that these provisos are complied with.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of February, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

APPENDIX A
Aqua Co.
Docket No. W-190, Sub 1

WATER RATE SCHEDULE

Residential Service

RATE:

For the first 4,000 gallons	$4.00
For the next 5,000 gallons	.75 per M (Thousand)
Over 9,000 gallons	.60 per M (Thousand)

CONNECTION CHARGE:

$100.00 per service installed

RECONNECTION CHARGES:

N.C.U.C. Rule R7-20(f)	$10.00
N.C.U.C. Rule R7-20(g)	10.00

DOCKET NO. W-153, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Manufacturers Associates of the South, Inc., to purchase water properties of Deer Park Mines, Inc.	) ORDER APPROVING) SALE AND ISSUING) CERTIFICATE

An application was filed by Manufacturers Associates of the South, Inc. (Manufacturers), September 19, 1967, through its President, Eugene Brown, requesting approval of the sale to it of the water system owned by Deer Park Mines, Inc. (Deer Park), of the water system located in the Deer Park Lakes Estates, Spruce Pine, Mitchell County, North Carolina.

Manufacturers further requests that it be issued a Certificate of Public Convenience and Necessity and that the Certificate heretofore issued to Deer Park Mines, Inc., be canceled and terminated.

Based on the application treated as an affidavit and the official records of the Commission, the Commission makes the following

FINDINGS OF FACT

1. That Deer Park is a North Carolina corporation authorized by this Commission in Docket No. W-153, issued on December 23, 1959, to engage in the sale of the water to the public for compensation.

2. That Deer Park has been furnishing water service to customers in the Deer Park Lakes Subdivision pursuant to the issuance of the Certificate of Public Convenience and Necessity.

3. That on March 1, 1966, Manufacturers purchased from Deer Park the water system owned by it located in Deer Park Lake Estates, Mitchell County, North Carolina.

4. That Deer Park and Manufacturers were not aware that Commission approval of the sale was required by Statute.

5. That Manufacturers filed a statement showing the general entries at March 1, 1967, recording the purchase on its books of all assets and the assumption of all liabilities at book value. A copy of said entries are attached to the application.

6. That Manufacturers submitted a financial report of examination for the year ending February 28, 1967, by Richard M. Hunter and Company, Certified Public Accountants, Charlotte, North Carolina, showing its financial position and the results of the company's operation.

7. That Manufacturers is now furnishing water to consumers in the Deer Park Lake Estates at rates heretofore authorized by the Commission.

Based on the foregoing findings of fact, the Commission arrives at the following

CONCLUSIONS

1. That Manufacturers has acquired and has been furnishing water service to customers located in the Deer Park Lakes Estates, Spruce Pine, Mitchell County, North Carolina, since March 1, 1967, at rates heretofore authorized by the Commission for said service.

2. That Manufacturers is financially able and is willing to continue the service to the customers in said subdivision.

3. That since the acquisition of the water properties by Manufacturers, the certificate heretofore issued to Deer Park is no longer required by public convenience and necessity.

4. That the public convenience and necessity requires the approval of the sale of the water system from Deer Park to Manufacturers nunc pro-tunc.

IT IS, THEREFORE, ORDERED That the sale of the water properties located in the Deer Park Lake Estates Subdivision from Deer Park to Manufacturers be and is hereby approved, nunc pro-tunc.

IT IS FURTHER ORDERED That a Certificate of Public Convenience and Necessity be and is hereby issued to Manufacturers authorizing it to own, construct, and operate the water system in the Deer Park Lakes Estates Subdivision, Mitchell County, North Carolina, and that this order in itself shall constitute said certificate of public convenience and necessity.

IT IS FURTHER ORDERED That the rates heretofore authorized for service in said subdivision for Deer Park be and are hereby authorized for service to said customers by Manufacturers.

IT IS FURTHER ORDERED That the Certificate of Public Convenience and Necessity heretofore issued to Deer Park be and is hereby canceled and terminated.

IT IS FURTHER ORDERED That Manufacturers shall keep its books and records in accordance with a uniform system of accounts as adopted by this Commission for water utilities.

IT IS FURTHER ORDERED That Manufacturers be and is hereby required to comply with the rules and regulations of this Commission applicable to water utilities.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of October, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. W-2, SUB 16

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Spring Lake Enterprises, Inc.,)
for authority to sell its water and sewer) ORDER
properties in Spring Lake, North Carolina,) AUTHORIZING
and environs to the Town of Spring Lake) SALE

BY THE COMMISSION: Spring Lake Enterprises, Inc. (Spring Lake), on March 17, 1967, filed with this Commission an application for authority to sell to the Town of Spring Lake (Town) the water and sewer properties owned and operated by it in and adjacent to the Town of Spring Lake, North Carolina. The application further requests that Spring Lake be permitted to abandon water and sewer service in the area of Spring Lake and environs upon consummation of the sale to the Town of Spring Lake.

From the application filed, the Commission finds the following

FINDINGS OF FACT

1. That Spring Lake is a North Carolina corporation with its principal office and place of business in Spring Lake, North Carolina, and pursuant to the authority of the North Carolina Utilities Commission is engaged in the distribution and sale of water and sewer service to the public for compensation in Spring Lake, North Carolina.

2. That Spring Lake has entered into a contract with the Town, which contract has been duly agreed to, approved, and executed by the parties thereto, is currently effective, and is made a part of the application as fully set forth herein. Pursuant to said contract, Spring Lake agrees to sell to the Town, and the Town agrees to buy, all of Spring Lake's water and sewer properties in and adjacent to the Town of Spring Lake on the terms and conditions set forth in said contract.

3. That the residents of the Town of Spring Lake in an election held on March 29, 1966, voted in favor of the water bond issue for the purpose of financing the purchase of said

water system from Spring Lake by the sale of bonds. The result of said election was 197 votes in favor of the bond issue and 10 votes against the bond issue.

4. That upon the acquisition of the water and sewer properties of Spring Lake, the Town will distribute and sell water and sewer service to the residents of the Town of Spring Lake and adjacent areas, which are now being served by Spring Lake.

5. That the Town is financially and otherwise able to operate and maintain the water and sewer system. It is now seeking to issue bonds in the amount of $783,000, $525,000 of which is to provide for the purchase pursuant to the contract and $33,000 to be applied to the purchase of various items of equipment to operate the utilities' facilities. The balance of said funds are to be available for improvements and additions to the water and sewer facilities.

6. That upon the acquisition of the water and sewer systems by the Town, the properties and facilities heretofore devoted to the public use by Spring Lake will continue to be devoted to the public use by the Town. Upon such acquisition, public convenience and necessity will no longer require service in the Town of Spring Lake and environs by Spring Lake as a public Utility.

CONCLUSIONS

Based on the foregoing findings of fact, the Commission is of the opinion that public convenience and necessity require that the sale be approved and Spring Lake should be authorized to abandon service upon acquisition of the facilities by the Town.

IT IS, THEREFORE, ORDERED:

1. That the sale by Spring Lake of the water and sewer systems to the Town as provided in the purchase contract attached to the application and made a part hereof be, and is hereby, approved and authorized.

2. That when the Town acquires the property of Spring Lake herein described, the certificate of public convenience and necessity heretofore issued to Spring Lake be, and is hereby, cancelled.

3. That Spring Lake be, and is hereby, authorized to abandon all service in the Town of Spring Lake and adjacent areas upon final consummation of said sale.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. W-181, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Request for Approval of Contract and Agreement between Providence Utilities, Inc., and Rousseau-Petty Company	)) ORDER)

By letter dated March 2, 1967, Providence Utilities, Inc., Charlotte, North Carolina, through its attorney filed with this Commission for approval an agreement between Providence Utilities, Inc., and Rousseau-Petty Company (Rousseau-Petty) in order that Rousseau-Petty, a developer, may obtain sewer service from Providence Utilities, Inc., in that certain property which it acquired by deed dated March 9, 1966, and recorded in Book 2735 at page 238 in the Mecklenburg Registry, which property is hereinafter referred to as the "Property." From the contract as filed, it was apparent that Rousseau-Petty would retain ownership of the sewer collection lines on the "Property." The Commission requested that the contract be amended so that Providence Utilities, Inc., could extend the sewer facilities owned by Rousseau-Petty in order to provide sewer service in areas contiguous to the "Property" if service is required by public convenience and necessity and further that Providence Utilities, Inc., be responsible for the maintenance of said sewer facilities.

By letter dated March 10, 1967, signed by E.E. Rousseau, president of Rousseau-Petty Company, Rousseau-Petty authorized Providence Utilities, Inc., to extend the sewer lines installed and owned by Rousseau-Petty in the "Property" to serve areas contiguous to said "Property" if service was required by public convenience and necessity.

Providence Utilities, Inc., by letter dated March 14, 1967, to Mr. E.E. Rousseau agreed to accept the maintenance of the sewer lines located on the "Property."

The Commission considered the contract as filed and the letter amendments thereto and is of the opinion that public convenience and necessity requires their approval provided that no additional tap fees be charged to customers purchasing said homes by either party to the contract.

IT IS, THEREFORE, ORDERED that the contract between Providence Utilities, Inc., and Rousseau-Petty Company dated March 31, 1967; letter dated March 14, 1967, from providence Utilities, Inc., to Rousseau-Petty; and the letter dated March 10, 1967, to Providence Utilities, Inc., from Rousseau-Petty, all of which are made part of this order, be and are hereby approved.

IT IS FURTHER ORDERED that no additional tap fees be charged to home owners purchasing homes or lots on the "Property."

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of March, 1967.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

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