FIFTY-NINTH REPORT

OF THE

NORTH CAROLINA

UTILITIES COMMISSION

ORDERS AND DECISIONS

Issued from

January 1, 1969, through December 31, 1969

Harry T. Westcott, Chairman

John W. McDevitt, Commissioner

M. Alexander Biggs, Jr., Commissioner

Clawson L. Williams, Jr., Commissioner

Marvin R. Wooten, 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.

LETTER OF TRANSMITTAL

December 31, 1969

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, 1969, we hereby present for your consideration the report of the Commission's decisions for the twelve-month period beginning January 1, 1969, and ending December 31, 1969.

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

John W. McDevitt, Commissioner

M. Alexander Biggs, Jr., Commissioner

Clawson L. Williams, Jr., Commissioner

Marvin R. Wooten, Commissioner

Mary Laurens Richardson, Chief Clerk

CONTENTS

PAGE

TABLE OF ORDERS REPORTED i

GENERAL ORDERS 1

ELECTRICITY 54

GAS 94

HOUSING AUTHORITY 99

MOTOR BUSES 129

MOTOR TRUCKS 183

RAILROADS 451

TELEGRAPH 467

TELEPHONE 472

WATER AND SEWER 557

SUBJECT INDEX - UTILITIES COMMISSION ORDERS
FULL REPORT PRINTED CONDENSED INDEX OUTLINE 598

SUBJECT INDEX - UTILITIES COMMISSION ORDERS
DETAILED INDEX OUTLINE 599

TABLE OF ORDERS NOT PRINTED CONDENSED OUTLINE 612

TABLE OF ORDERS NOT PRINTED DETAILED OUTLINE 613

1969 ANNUAL REPORT OF DECISIONS

of the

NORTH CAROLINA UTILITIES COMMISSION
TABLE OF CASES AND ORDERS REPORTED

Note: For General Orders, see end of Alphabetical Index Listing.

PAGE

A

A & J Motor Lines, Inc., from Lacy D. Britt Recommended Order Granting Transfer (T-1386, Sub 3) .. 381
A. K. Motors - Order Granting Application (T-1469) 234
Albemarle, City of - Order Granting Certificate for 200 Units of Low-Rent Housing (H-51) 99
Alexander Trucking Company - Recommended Order Granting Additional Authority (T-263, Sub 5) 240
Allstate Mobile Home Service, Inc. - Order Granting Application (T-1480) 245
Anserphone of Goldsboro, Incorporated - Order Granting Certificate of Convenience and Necessity (P-95) 472
Asheville, City of, N.C. - Order Approving the Lease and Option Agreement Between Suburban Coach Lines and the City of Asheville (B-294) 169

B

B & L Trucking Company - Order Denying and Dismissing Application (T-640, Sub 6) 189
Bell, Charles W., Hauling and Grading Company Recommended Order Denying and Dismissing Application (T-1463) 198
Bracey's Transfer, Inc. - Order Cancelling Authority (T-556, Sub 3) 183
Brookwood Water Corporation - Order Granting Amendment to Certificate of Public Convenience and Necessity (W-177, Sub 4) 557
Brookwood Water Corporation - Order Amending Certificate of Public Convenience and Necessity (W-177, Sub 6) 563
Brookwood Water Corporation - Order Amending Certificate of Public Convenience and Necessity (W-177, Sub 7) 566

C

Carmel Country Club, Inc. - Recommended Order Granting Certificate of Public Convenience and Necessity (S-5) 570
Carolina Coach Company - Order Granting Common Carrier Certificate No. B-15 for Additional Operating Authority (B-15, Sub 158) 146

Carolina Power & Light Company - Order Granting Certificate Authorizing Construction of Additional Generating Facilities at its Asheville Steam Electric Plant in Buncombe County, N. C. (E-2, Sub 175) 54
Carolina Power & Light Company - Order Granting Certificate Authorizing Construction of Additional Generating Facilities at its W. H. Weatherspoon Steam Generating Plant in Robeson County, N.C. (E-2, Sub 177) 56
Carolina Power & Light Company - Order Granting Certificate Authorizing Construction of Additional Generating Facilities at its Roxboro Steam Generating Plant in Person County, N.C. (E-2, Sub 178) 59
Carolina Power & Light Company - Order Granting Certificate Authorizing Construction of Additional Generating Facilities at its L. V. Sutton Steam Generating Plant in New Hanover County, N. C. (E-2, Sub 179) 62
Carolina Telephone and Telegraph Company - Proposal to Adjust Exchange Service Area Boundary - Order Granting in Part and Denying in Part (P-7, Sub 446) 531
Carolina Telephone and Telegraph Company - Order Approving Tariff Changes (P-7, Sub 454) 536
Carolina Telephone and Telegraph Company - Tariff Filing for New Service, an Alarm Coupler - Order Granting in Part and Denying in Part (P-7, Sub 459) 541
Carolina Transit Lines of Charlotte, Inc., from Sharon Coach Company, Inc. - Order Approving Transfer (B-295) 162
Childers Transfer Company - Recommended Order Revoking Certificate (T-1053, Sub 3) 229
Coastal Truckways, Inc. - Order Granting Application (T-1409, Sub 2) 480
Concord Telephone Company, The - Order Approving an Increase in Rates and Charges (P-16, Sub 86) 480
Country Enterprises, Inc. - Recommended Order Granting Authority to Transport Mobile Homes (T-1464) 253
Curtis, Bruce, Trucking Company - Order Granting Authority Shown by the Amended Application (T-1452) 261

D

Davenport Power & Light Company - Order Approving Lease and Option to Purchase Davenport Power & Light Company by Pitt & Greene EMC and Edgecombe-Martin EMC (E-32, Sub 2) 82
Davie Truckers, Inc. - Order Granting Contract Carrier Permit (T-1472) 264
Davis, Lewis Thompson, Jr. - Order Granting Contract Carrier Permit and Amending Presently Held Permit (T-1313, Sub 1) 268

Dillahunt, John T. - Order Approving Supplementary Agreement Extending the Terms of the Lease Agreement Between Floyd Hill and John T. Dillahunt (B-128, Sub 1) 177
Duke Power Company - Order Granting Certificate Authorizing Construction of New Generating Capacity on Belews Creek in Stokes County, N. C. (E-7, Sub 110) 65
Duke Power Company - Order Granting Certificate Authorizing Construction of Additional Generating Capacity at Cliffdale Steam Station, Rutherford County, N. C. (E-7, Sub 113) 67
Durham & Southern Railway Company - Agency Station at Angier and Coats, N. C. - Order Granting Petition (R-20, Sub 7) 451

E

Eastern Rowan Telephone Company, Inc. - Order Approving Adjustment of Rates and Charges (P-62, Sub 31) 492
Easton Mobile Homes - Order Sustaining Motion for Judgment as of Nonsuit and Dismissing Application (T-1474) 440
Economy Transport from C & S Transport - Order Approving Sale and Transfer (T-1468) 385
Edenton Housing Authority - Recommended Order Granting Certificate for 309 Units of Low-Rent Housing (H-46) 101
Electric Suppliers - Blue Ridge EMC and Mountain EMC - Order Assigning Service Areas in Watauga County, N. C. (ES-37) 77
Electric Suppliers - Carolina Power & Light Company, Pee Dee EMC, and Randolph EMC - Order Assigning Service Areas in Moore County, N. C. (ES-36) 71

F

First Courier Corporation - Order Granting Permit (T-1445) 270
Floyd, Ted Leo - Order Granting Contract Carrier Permit (T-1465) 278
Fredrickson Motor Express Corporation - Order Approving Application and Granting Additional Authority (T-645, Subs 13 & 14) 281

G

General Investment Corporation - Order Setting Rates and Charges (W-158, Sub 5) 592
General Telephone Company of the Southeast - Order Approving Service Improvement Program and Amending Commission Order Dated December 19, 1968 (P-19, Subs 94 & 95) 498
Glosson Motor Lines, Inc., from West Brothers Transfer and Storage, Inc. - Recommended Order Approving Sale (T-1425) 390

Greyhound Lines, Inc. - Final Order Following Remand from Court of Appeals Granting a Certificate of Convenience and Necessity (B-7, Sub 82) 150

H

Hargrove's Mobile Home Movers - Recommended Order Granting a Common Carrier Certificate (T-1447) 284
Helms Motor Express, Inc. - Recommended Order Granting Additional Operating Authority (T-681, Sub 28) 287
Helms Motor Express, Inc. - Order Correcting Clerical Omission in Order of July 21, 1969 (T-681, Sub 28) ... 290
Helms Motor Express, Inc. - Order Denying Petition (T-681, Sub 29) 201
Hemingway Transport, Inc., from The New Dixie Lines, Inc. - Order Approving Sale and Transfer of Stock and Operating Authority (T-1479) 393
Hendersonville, City of - Recommended Order Granting Amendment of Certificate for 100 Low-Rent Housing Units (H-22, Sub 1) 104
Hendersonville, City of - Order Amending Recommended Order of February 4, 1969 (H-22, Sub 1) 107
High Point Delivery Company, Inc. - Recommended Order Granting a Contract Carrier Permit (T-1461) 291
Holt, H. R. - Order Granting Application (T-320, Sub 6) 294

IJK

None listed

L

LaFayette Water Corporation - Order Granting Amendment to Certificate of Public Convenience and Necessity (W-43, Sub 5) 572
Lee Oil Company of Greensboro, Inc. - Recommended Order Granting a Contract Carrier Permit (T-1484) 299
Lee Telephone Company - Order Granting Authority to Increase its Rates and Charges (P-29, Sub 61) 502
Lexington Telephone Company - Petition of Piedmont Telephone Membership Corporation and Churchland Mutual Telephone Company, Inc., for Territorial Protection in Accordance with the Agreement Modified Order Upon Reopened Proceeding (P-31, Sub 74) 545
Lincolnton Housing Authority - Order Granting Certificate for 350 Low-Rent Housing Units (H-50) 108

M

M & M Tank Lines, Inc., from Service Transportation Corporation - Order Permitting Sale (T-139, Sub 13) 402

Maybelle Transport Company - Recommended Order Granting Authority (T-149, Sub 18) 302
McCotter, J. D., Inc. - Order Granting Motor Common Carrier Authority (T-448, Sub 5) 304
McRae Industries, Inc., from Helms Motor Express, Inc. - Order Approving Sale and Transfer of Stock (T-681, Sub 30) 407
Merritt, D. B. - Recommended Order Granting Contract Carrier Permit (T-1482) 307
Metro Express Delivery, Inc., from Marie Rhodes Hyder Order Transferring Certificate (T-23, Sub 6) 412
Mullis, Brandon L. - Recommended Order Granting Application (T-1470) 310

N

Naylor Mobile Homes - Order Denying Application (T-1437) 203
North Wilkesboro Housing Authority - Order Granting Certificate for 100 Units of Low-Rent Housing (H-49) 110
Northcutt, Med C., Morven, North Carolina Recommended Order Granting Passenger Common Carrier Certificate to Transport School Children (B-297) 155
Northeastern Trucking Company from Helderman Trucking Company, Inc. - Order Approving Sale and Transfer (T-1196, Sub 3) 419

O

Office Communications Company - Order Operating as a Certificate of Exemption (P-93) 475
Overnite Transportation Company - Recommended Order Denying Application (T-208, Sub 29) 208
Oxford Housing Authority - Recommended Order Granting Certificate for 200 Units of Low-Rent Housing (H-48) 114

P

P & H Water Company, Inc. - Order Granting Certificate of Public Convenience and Necessity (W-257) 579
Parrish Transport Company from Parrish Oil Company Order Approving Transfer (T-1444) 425
Pendergrass, T. J., from Nixon Brothers Transfer Order Approving Sale and Transfer (T-1455) 427
Piedmont Natural Gas Company, Inc. - Order Granting Authority to Issue and Sell Notes (G-9, Sub 74) 94
Public Service Company of North Carolina, Incorporated - Order Granting Authority to Issue and Sell Additional Shares of Common Stock (G-5, Sub 68) 96

Q

Quality Water Supplies, Inc. - Order Granting Amendment to Certificate of Public Convenience and Necessity (W-225, Sub 6) 580

Queen City Coach Company - Order Cancelling Lease Agreement Between Queen City Coach Co. and Power City Bus Company (B-69, Sub 102) 179

R

Raleigh, City of - Order Amending and Extending Certificate for 500 Additional Dwelling Units of Low-Rent Public Housing (H-41, Sub 1) 116

Raleigh Delivery Service, Inc. - Order Granting Contract Carrier Permit (T-1443) 312

Raleigh Union Bus Station - Carolina Coach Company (Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Co., and Queen City Coach Co.) - Order Approving Lease Agreement for the Operation of Said Station by Carolina Coach Co. (B-275, Sub 37) 129

Rates-Bus - Smoky Mountain Stages, Inc. - Order Granting Proposed Elimination of Murphy, N.C., as an Equipment Point in Connection with Charter Trips (B-105, Sub 25) 158

Rates-Railroad - Petition for Authority to Apply on North Carolina Intrastate Traffic the Same Increases in Rail Rates and Charges as now Applicable on Interstate Traffic - Order Granting in Part and Denying in Part (R-66, Sub 58) 459

Rates-Truck - Proposed Revised Rates and Charges on Unmanufactured Tobacco, Leaf or Scrap, and of Proposed Detention Rules and Charges and Revised Rates on Unmanufactured Tobacco and Related Commodities - Order Granting in Part and Denying in Part (T-825, Subs 104 & 119) 340

Rates-Truck - Proposed Revised Rates and Charges on Unmanufactured Tobacco, Leaf or Scrap, and of Proposed Detention Rules and Charges and Revised Rates on Unmanufactured Tobacco and Related Commodities - Order Correcting Commission's Order of April 14, 1969 (T-825, Subs 104 & 119) 349

Rates-Truck - Proposed Increase in Rates on Commodities in Bulk, Scheduled Effective October 10, 1968 - Order Granting Increase (T-825, Sub 120) 350

Rates-Truck - Proposed Increase in Rates on Commodities in Bulk, Scheduled Effective October 10, 1968 - Order Granting Petition for Certain Relief from Provisions of the Order Dated 1-23-69 (T-825, Sub 120) 355

Rates-Truck - Proposed Increase in Rates and Charges Applicable on Telephone Equipment Order Denying Increase (T-825, Sub 122) 356

Rates-Truck - Proposed Revision in Motor
Common Carrier Rates and Charges Applicable
on Cement, Lime and Related Commodities
Order Granting Increase (T-825, Sub 123) (3-17-69) 359
Rates-Truck - Proposed Revision in Motor Common
Carrier Rates and Charges Applicable on Cement,
Lime and Related Commodities - Order Granting
Petition for Certain Relief from Provisions of
the Order Dated 3-17-69 (T-825, Sub 123) (10-6-69) 364
Rates-Truck - Proposed Revised Rates, Rules and
Regulations and Charges Applicable for
Transportation of Mobile Homes and House
Trailers - Order Granting Proposed Changes
(T-825, Sub 124) 365
Rates-Truck - Proposed Increase in Motor Common
Carrier Rates and Charges Applicable on
Household Goods - Order Granting Proposed
Increase (T-825, Sub 127) 368
Rates-Truck - Proposed Motor Truck Rule and Charge
for Cleaning of Tank Vehicles Scheduled to
Become Effective August 16, 1969 (Sub 129), and
Proposed Increase in Rates on Commodities, in
Bulk, Scheduled to Become Effective October 6,
1969 (Sub 130) - Order Granting Proposals
(T-825, Subs 129 & 130) 374
Reeves Mobile Home Service - Order Granting
Authority (T-1457) 318
Regional Utility Company - Order Amending
Certificate of Public Convenience and
Necessity (W-254, Sub 1) 583
Rhyne, James D. - Order Granting Certificate of
Public Convenience and Necessity (W-253) 587
Rocky Mount, City of - Order Granting Certificate
for Construction of Certain Water Supply Reservoir
Facilities (A-22) 119
Rocky Mount Mills - Order Authorizing Rocky Mount
Mills the Authority to Sell its Electrical
Distribution System in and Near Rocky Mount,
N.C., to the City of Rocky Mount, N.C.
(E-25, Sub 6) 89

S

Sardis Utilities Company - Recommended Order
Granting Certificate of Public Convenience
and Necessity (S-4) 589
Schwerman Trucking Company - Order Granting
Application (T-1367, Sub 4) 320
Sherron Trucking Company - Order Sustaining
Motion for Judgment as of Nonsuit and
Dismissing Application (T-1477) 444
Silver Fox Lines - Recommended Order Approving
Petition to Discontinue Service (B-82, Sub 13) 179
Southern Bell Telephone and Telegraph Company
Order Granting in Part and Denying in Part
(P-55, Sub 578) 525

Southern Railway Company - Agency Station at Tuxedo, N.C. - Recommended Order Granting Application (R-29, Sub 181) 453
Southern Railway Company - Agency Station at Saluda, N.C. - Recommended Order Granting Application (R-29, Sub 182) 456
Sparks, Dewitt P., Jr. - Order Sustaining Motion for Judgment as of Nonsuit and Dismissing Application (T-1478) 447
Stanley Mobile Home Movers - Recommended Order Granting Authority (T-1467) 323
Statesville Housing Authority - Recommended Order Granting Certificate for 250 Units of Low-Rent Housing (H-47) 123
Sugar Transport, Inc. - Recommended Order Granting Application (T-1072, Sub 2) 325

T

Thurston Motor Lines, Inc. - Recommended Order Denying Application (T-480, Sub 27) 219
Thurston Motor Lines, Inc. - Amendment to Order of August 27, 1969 (T-480, Sub 27) 226

U

Urban Water Co. - Order Granting Certificate of Public Convenience and Necessity (W-256) 590

V

Virginia Electric and Power Company - Order Granting Certificate Authorizing Construction of Two 25.4 Megawatt Oil Fired Combustion Turbine Driven Electric Generators at Kitty Hawk, N.C. (E-22, Sub 112) 69

W

Wachovia Courier Corporation - Order Granting a Contract Carrier Permit (T-1462) 331
Western Union Telegraph Company, The - Order Granting Rate Increase (WU-75) 467
Wilco Transport, Inc., from Apex Motor Line, Inc. Order Approving Application (T-1460) 431
Wilkinson, Elmer N., Transfer - Order Cancelling Certificate in Part (T-773, Sub 1) 231
Williams Haulers from L & S Truckers Service, Inc. Order Approving Sale and Transfer (T-1458) 435
Wilmington Union Bus Station - Seashore Transportation Co. (Carolina Coach Co., Greyhound Lines, Inc., Southern Greyhound Lines Division, Queen City Coach Co., and Southern Coach Co.) - Order Approving Agreement for the Operation of Said Station by Seashore Transportation Co. (B-275, Sub 38) 134

Wilmington Union Bus Station - Seashore Transportation Co. (Carolina Coach Co., Greyhound Lines, Inc., Southern Greyhound Lines Division, Queen City Coach Co., and Southern Coach Co.) - Order Approving the Said Operating Agreement Dated July 1, 1953 (B-275, Sub 38) 141
Wilmington Union Bus Station - Seashore Transportation Co. (Carolina Coach Co., Greyhound Lines, Inc., Southern Greyhound Lines Division, Queen City Coach Co., and Southern Coach Co.) - Order Approving Operating Agreement Dated Aug. 1, 1969, and the Said Lease Agreement Dated Aug. 1, 1969 (B-275, Sub 38) 145
Wilson Bus Company from Cape Fear Valley Coaches, Inc. - Order Approving Transfer (B-296) 167
Wilson, City of - Recommended Order Granting Amendment to Certificate for 125 Units of Low-Rent Housing (H-11, Sub 1) 126
Wilson Merchant Delivery Service, Inc. - Order Granting Contract Carrier Permit (T-1096, Sub 5) 337

XYZ

None listed

GENERAL ORDERS

General

Revision of Rule R2-35 - Interchange by Motor Freight Carriers of Intrastate Traffic - Order Amending Rule R2-35 (M-100, Sub 19) 1

Amendments to Rule R1-16 - Filing of Additional Information with Applications for Pledging Assets, Issuing Securities, and Assuming Obligations Order Amending Rule R1-16 (M-100, Sub 20) 2

Addition of New Article 13 (Includes Rules R2-79 - R2-85) - Rules for Registration of Exempt Interstate Motor Carriers, Pursuant to G.S. 62-266 and Chapter 721 of the Session Laws of 1969 Order Adding New Article 13 (M-100, Sub 21) 4

Amendments to Rules R1-26 and R8-29 - Correction of Technical and Procedural Provisions in Various Administrative Rules - Order Adopting Rule Changes (M-100, Sub 22) 21

Amendments to Rules R1-5(g), R1-7(c), R1-9(g), R1-15(3), R1-16(a), R1-19(c), R1-24(f)(3), R1-25(c), and Addition of Rule R1-32 - Increasing Required Number of Copies of Filings - Order Adopting Rule Change (M-100, Sub 23) 21

Revision of Rule R2-46 of Motor Carrier Regulations - Safety Rules and Regulations Order Amending Rule R2-46 (M-100, Sub 24) 23

Amendments to Rule R2-48 - Revise the Classification of Motor Carriers of Property to Conform with Uniform System of Accounts - Order Amending Rule R2-48 (M-100, Sub 25) 24

Administrative Orders

Clarification of Term "fertilizer and fertilizer materials" (4066-W) (4-17-69) 25

Protest of Bracey's Transfer, Inc., Rowland, North Carolina, et al, to Administrative Ruling Clarifying the Term "fertilizer and fertilizer materials" in General Order No. 4066-W Dated 4-17-69 (8-4-69) 26

Clarification in Commodity Now Described in Certain Certificates as "cotton waste" - General Order Amending the Description "cotton waste" (4066-X) 32

Electricity

Petition of Carolina Power & Light Company for Modification of Order Pertaining to Accounting Procedure - Supplemental Order Modifying Order of January 14, 1963 (E-100, Sub 2) 33

Petition of Duke Power Company for Modification of Order Pertaining to Accounting Procedure - Supplemental Order Modifying Order of January 14, 1963 (E-100, Sub 2) 36

Gas

Petition of North Carolina Natural Gas Corporation for Modification of Order Pertaining to Accounting Procedure - Supplemental Order Modifying Order of January 14, 1963 (G-100, Sub 5) 39

Petition of Public Service Company of North Carolina, Inc., for Modification of Order Pertaining to Accounting Procedure - Supplemental Order Modifying Order of January 14, 1963 (G-100, Sub 5) 41

Telephone

Investigation of Nonrecurring Charges for Installations, Changes, Moves, and Reconnects by Telephone Companies Operating within North Carolina - Order Authorizing Increase in Charges (P-100, Sub 22) 43

Water

Amendments to Rules R7-2, R7-3, R7-7, R7-8,
R7-12, and R7-20 - Order Adopting Amendments
to Rules for Water Companies (W-100, Sub 2) 49

DOCKET NO. M-100, SUB 19

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Revision of Rule R2-35 of the Motor Carrier Rules and Regulations of the North Carolina Utilities Commission) ORDER

BY THE COMMISSION: The North Carolina Utilities Commission, acting under the power and authority delegated to it by law for the promulgation of rules and regulations for the enforcement of the Public Utilities Act, directed a notice to all regulated motor freight carriers operating in intrastate commerce in North Carolina, of a proposed rule making proceeding for April 29, 1969, involving proposed changes in Rule R2-35 of the Commission's motor carrier regulations. A number of motor carriers as well as shippers and receivers of freight, appeared before the Commission in open session on April 29, 1969, and offered testimony favorable to the proposed amendment, with a request that the proposed revision be modified to allow tariff publication of interchange agreements in lieu of filing such agreements with the Commission as originally proposed. No protest was filed and no one appeared at the hearing in opposition thereto, nor to the modification requested.

Upon consideration thereof, the Commission is of the opinion that the proposed revision in Rule R2-35 as modified in accordance with the above request, is in the public interest and should be approved.

IT IS, THEREFORE, ORDERED:

That Rule R2-35 of the Commission's Rules and Regulations be, and the same is, hereby amended to read as follows:

Rule R2-35. Interchange by Motor Freight Carriers of Intrastate Traffic. - (a) Except under special conditions and for good cause shown, all regular route common carriers of general commodities by motor vehicle operating in intrastate commerce in North Carolina shall establish through routes and joint rates with other regular route common carriers, and shall interchange intrastate traffic as a matter of course under interchange agreements.

(b) All common carriers of property by motor vehicle operating in intrastate commerce in North Carolina, whether regular route or irregular route common carrier, may establish through routes and joint rates and interchange intrastate traffic with any and all common carriers of property by motor vehicle, railroad, express, or water, with respect to traffic which either originates at or is destined to points in North Carolina, such interchange of traffic to be made pursuant to agreements between the participating carriers therein, and notice of, and the effectiveness of

said agreements shall be given by the making of appropriate publication in the carrier's tariffs.

(c) This rule shall not apply to, or affect in any manner whatsoever, the interchange of interstate traffic at points within or without the State of North Carolina.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of May, 1969.

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

DOCKET NO. M-100, SUB 20

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Proposed Amendments to Commission Rule R1-16 to Provide for the Filing of Additional Information with Applications for Pledging Assets, Issuing Securities, and Assuming Obligations	) ORDER ADOPTING AMENDMENTS TO RULE R1-16 RELATING TO ISSUANCE OF SECURITIES

BY THE COMMISSION: The North Carolina Utilities Commission, acting under the power and authority delegated to it for the promulgation of rules and regulations for the enforcement of the Public Utilities Act, as provided in G.S. 62-31, issued its Notice of Rule-Making Proceeding in this Docket on July 29, 1969, instituting a rule-making proceeding with notice to all regulated utility companies operating under franchises from the North Carolina Utilities Commission, setting forth specific proposed amendments to Commission Rule R1-16 to provide for the filing of additional information with applications for pledging assets, issuing securities, and assuming obligations. As provided in said Notice of Rule-Making Proceeding, the Commission received comments, objections, and suggestions in respect to said proposed amendments from any utility company desiring to file such comments with the Commission and considered said comments, objections, and suggestions in public hearing on August 15, 1969, including suggestions, objections, and comments filed with the Commission by Piedmont Natural Gas Company, Inc., Central Telephone Company, Lee Telephone Company, Duke Power Company, General Telephone Company of the Southeast, General Telephone Company of North Carolina, Concord Telephone Company, Carolina Power & Light Company, Lexington Telephone Company, Carolina Telephone and Telegraph Company, and Public Service Company of North Carolina, Inc., and considered oral argument thereon at said hearing on August 15, 1969.

The Commission has considered all of the objections to the proposed amendments and has modified the proposed amendments

to subsections R1-16(a)(1), R1-16(a)(5), R1-16(a)(6), R1-16(a)(7), and R1-16(a)(8) as a result of and in accordance with certain of the comments, objections, and suggestions relating thereto.

Upon consideration of the record herein, the Commission is of the opinion that the proposed amendments to Rule R1-16 of the Rules and Regulations of the Commission, as modified in accordance with the suggestions, comments, and objections filed in the rule-making proceeding herein, are in the public interest and should be approved,

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Rule R1-16 is hereby amended by adding at the end of subsection R1-16(a)(1) thereof the following:

"The application shall set forth the particular facts and circumstances showing that the proposed issuance of securities, pledging of assets, or assumption of liabilities and obligations (i) is 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 public performance by such utility of its service to the public, (iv) will not impair its ability to perform that service, and (v) is reasonably necessary and appropriate for the purposes for which it is issued."

2. That Rule R1-16 is hereby amended by adding at the end of subsection R1-16(a)(5) thereof the following:

"If the purpose or purposes for which the proceeds obtained are to be used is to refinance or pay off short term indebtedness as defined in G.S. 62-167 and not heretofore approved by Order of the Commission, the application shall set forth the purpose or purposes for which said outstanding indebtedness was incurred, and if said original indebtedness was spent on construction, the application shall list amounts by the major construction accounts and the total construction expenditures for which the proceeds of the original indebtedness were expended."

3. That Rule R1-16 is hereby amended by adding at the end of subsection R1-16(a)(6) thereof the following:

"The application shall also include a pro forma balance sheet and income statement showing the balance sheet and the income statement as they would be after the issuance of said security."

4. That Rule R1-16 is hereby amended by adding at the end of subparagraph R1-16(a) a new subsection (7) to read as follows:

"(7) In any case where the applicant has filed or subsequently files a prospectus or other similar document

with the Securities and Exchange Commission or with prospective investors for private placement in connection with said issue, 11 copies of such prospectus or document shall be filed with the North Carolina Utilities Commission at the time the application is filed with the Securities and Exchange Commission or with private investors."

5. That Rule R1-16 is hereby amended by adding at the end of subparagraph R1-16(a) a new subsection (8) to read as follows:

"(8) A statement of the source and application of funds, sometimes referred to as cash flow, showing the amounts available from all sources since the last finance application, to meet any part of the purposes or projects for which the financing or issue is required, including contributions from customers or others, salvage proceeds, depreciation reserve accruals, any unused balances in prior financing applications, and retained earnings, as available for payment of construction expenditures reported under subsection R1-16(a)(5)."

ISSUED BY ORDER OF THE COMMISSION.

This 3rd day of September, 1969.

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

DOCKET NO. M-100, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Rules for registration of exempt interstate motor carriers, pursuant to G.S. 62-266 and Chapter 721 of the Session Laws of 1969) 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 1st day of January, 1970:

Add new Article 13 to read as follows:

Article 13.

Rule R2-79. Definitions. - The following letters and words, when used in this Article, shall have the following meanings, unless otherwise clearly apparent from the context:

(a) The words "driveaway operation" shall mean an operation in which any vehicle or vehicles, operated singly or in lawful combinations, new or used, not owned by the transporting motor carrier, constitute the commodity being transported;

(b) The letters "ICC" shall mean the Interstate Commerce Commission;

(c) The word "law" shall include constitutional and statutory provisions and rules and regulations adopted by the North Carolina Utilities Commission;

(d) The words "motor carrier" shall mean a motor carrier of passengers or property for compensation engaged in interstate or foreign commerce when its operation is exempt from economic regulation by the Interstate Commerce Commission under the Interstate Commerce Act, as amended;

(e) The letters "NARUC" shall mean the National Association of Regulatory Utility Commissioners;

(f) The words "State Commission" or "Commission" shall mean the North Carolina Utilities Commission;

(g) The word "vehicle" shall mean a self-propelled or motor driven vehicle operated by a motor carrier; and

(h) The words "within the borders" shall mean such operations deemed to include interstate or foreign operations to, from, within or traversing the State.

Rule R2-80. Registration required. - (a) A motor carrier shall not operate within the borders of the State unless and until there shall have been filed with and approved by the Commission an application for the registration of such operation as prescribed by the provisions of this Article, and there shall have been a compliance with all other requirements of this Article. A change in operation shall be reported by the prior filing of a supplemental application.

(b) The application for the registration of such operation, and any supplemental application to report any change in operation, shall be in the form set forth in Form A-1 which is attached hereto and made a part of this Rule. The application shall be printed on a rectangular card or sheet of paper eleven inches in height and eight and one-half inches in width. The application shall be duly completed and executed by an official of the motor carrier.

(c) The application for the registration of such operation shall be filed in duplicate with the Commission. The original shall be retained by the Commission. The other copy of the application or an acknowledgement shall be transmitted to the motor carrier when the application is

approved by the Commission. The application shall be accompanied by a fee in the amount of $25.00.

Rule R2-81. Designation of Process Agent Required. - (a) A motor carrier shall not operate within the borders of this State unless and until there shall have been filed with and accepted by the Commission a currently effective designation of a local agent for service of process.

(b) The motor carrier shall file such designation of a local agent for service of process with the Commission by showing the name and address of such agent on the Uniform Application for Registration of Interstate Motor Carrier Operations Exempt from ICC Regulation, as set forth in Form A-1 attached hereto.

Rule R2-82. Vehicle registration and identification required. - (a) A motor carrier shall not operate a vehicle or engage in driveaway operations within the borders of the State unless and until the vehicle or driveaway operation shall have been registered and identified with the Commission in accordance with the provisions of this Article, and there shall have been a compliance with all other requirements of this Article.

(b) On or before the thirty-first of January of each calendar year, but not earlier than the preceding first day of November, such motor carrier shall apply to the 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, or driveaway operations which it intends to conduct, within the borders of this State during the ensuing year. The motor carrier may apply for such number of stamps as is sufficient to cover its vehicles or driveaway operations which it anticipates will be placed in operation or conducted during the period for which the stamps are effective. The motor carrier may thereafter file one or more supplemental applications for additional stamps if the need therefor arises or is anticipated.

(c) If the Commission determines that the motor carrier has complied with all applicable provisions of this Article, the Commission shall issue to the motor carrier the number of identification stamps requested.

(d) An identification stamp issued or assigned under the provisions of this Article shall be used for the purpose of registering and identifying a vehicle or driveaway operations as being operated or conducted by a motor carrier, and shall not be used for the purpose of distinguishing between the vehicles operated by the same motor carrier. A motor carrier receiving an identification stamp under the provisions of this Article shall not knowingly permit the use of same by any other person or organization.

(e) The motor carrier must accompany such application with a list identifying each vehicle (other than one to be used in a driveaway operation) which it intends to operate within the borders of the State during the ensuing year. The motor carrier must keep such list current by filing with it an identification of each vehicle acquired for operation within the borders of the State and each vehicle whose operation is discontinued therein after the filing of such list. The filing of an identification of such newly acquired or discontinued vehicle shall be made with the Commission on or before the fifteenth day after the motor carrier initiates or discontinues operation of the vehicle within the borders of such State.

(f) On or before the thirty-first 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 Regulatory Utility Commissioners 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, or driveaway operations which it intends to conduct, within the borders of the State during the ensuing year.

(g) The NARUC shall issue to the motor carrier the number of cab cards requested. A motor carrier receiving a cab card under the provisions of this Article shall not knowingly permit the use of same by any other person or organization. Prior to operating a vehicle, or conducting a driveaway operation, within the borders of the State during the ensuing year, the motor carrier shall place one of such identification stamps on the back of a cab card in the square bearing the name of the State in such a 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 or driveaway operation.

(h) The registration and identification of a vehicle or driveaway operations under the provisions of this Article and the identification stamp evidencing the 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.

(i) The application for the issuance of such identification stamps shall be in the form set forth in Form B-1 which is attached hereto and made a part of this Article. The application shall be printed on a rectangular card or sheet of paper eleven inches in height and eight and one-half inches in width. The application shall be duly completed and executed by an official of the motor carrier, and shall be accompanied by a filing fee in the amount of $1.00 for each identification stamp applied for. Applications for annual reregistration of such motor vehicles shall be accompanied by a filing fee in the amount

of 25¢ for each identification stamp applied for. 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.

(j) The application for the issuance of such cab cards shall be duly executed by an official of the motor carrier.

(k) The identification stamp issued under the provisions of this Article by the Commission shall bear its name or symbol and such other distinctive markings or information, if any, as the Commission deems appropriate. The stamp shall be in the shape of a square and shall not exceed one inch in diameter.

(l) The cab card referred to above shall be in the form set forth in Form D-1 which is attached hereto and made a part of this Article, and shall bear the seal of the NARUC. The cab card shall be printed on a rectangular card eleven inches in height and eight and one-half inches in width.

(m) In the case of a vehicle not used in a driveaway operation, the cab card shall be maintained in the cab of such vehicle for which prepared whenever the vehicle is operated by the carrier identified in the cab card. Such cab card shall not be used for any vehicle except the vehicle for which it was originally prepared. A motor carrier shall not prepare two or more cab cards which are effective for the same vehicle at the same time.

(n) In the case of a driveaway operation, the cab card shall be maintained in the cab of the vehicle furnishing the motor power for the driveaway operation whenever such an operation is conducted by the carrier identified in the cab card.

(o) A cab card shall, upon demand, be presented by the driver to any authorized government personnel for inspection.

(p) (1) Each motor carrier shall destroy a cab card immediately upon its expiration.

(2) If a motor carrier permanently discontinues the use of a vehicle for which a cab card has been prepared, it shall nullify the cab card at the time of such discontinuance.

(q) (1) Any erasure, improper alteration, or unauthorized use of a cab card shall render it void.

(2) If a cab card is lost, destroyed, mutilated, or becomes illegible, a new cab card may be prepared and new identification stamps may be issued therefor upon application by the motor carrier and upon payment of the fee prescribed.

Rule R2-83. Evidence of liability security. - (a) All such interstate exempt 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 R3-36 (schedules attached). 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) 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.

(c) Such motor carriers who elect to post bond in lieu of insurance must do so in the form set forth in Form G appended to and made a part of this Article. Notice of cancellation of surety bond 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 R2-84. Reproduction of forms. - (a) In order to achieve complete uniformity in the reproduction of the Uniform Identification Cab Card, as set forth in attached Form D-1, the NARUC shall reproduce and supply an adequate quantity of such form for use under the provisions of this Article. No person or organization, other than the NARUC, shall reproduce such form for use under the provisions of this Article, and any such form reproduced by such an unauthorized person or organization is hereby declared to be void.

(b) The NARUC, upon request, shall supply such form to the Commission and motor carriers. The NARUC shall fix and charge a reasonable fee in connection with the reproduction and supply of such form. The Commission shall charge the same fee as charged by the NARUC.

(c) A typewriter or indelible ink shall be used in entering information in the blank spaces appearing on the forms prepared under the provisions of this Article.

Rule R2-85. Violations declared unlawful; criminal penalties; civil remedies. - 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 15th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

MOTOR CARRIER PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

MINIMUM LIMITS

(a) All common and contract carriers of property 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

Property 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)
All motor vehicles used in the transportation of property	$25,000	$100,000	$10,000

(b) All common and contract carriers of passengers and 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

Passenger 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

FORM P-1

UNIFORM APPLICATION FOR REGISTRATION
OF INTERSTATE MOTOR CARRIER OPERATIONS
EXEMPT FROM ICC REGULATIONS

To: North Carolina Utilities Commission Date: __________

Applicant ____

Street ____

City __________________________ State ______________________

The vehicle or vehicles which the applicant intends to operate, or driveaway operations which it intends to conduct, within the borders of the State of North Carolina, are exempt from regulation by the Interstate Commerce Commission under the Interstate Commerce Act, as amended, pursuant to:

( ) Sec. 202 (c) (1) (Terminal Area Exemption)
( ) Sec. 202 (c) (2) (Terminal Area Exemption)
( ) Sec. 203 (a) (11) (Foreign Commerce Exemption)

( ) Sec. 203 (b) (1) (School Bus Exemption)
( ) Sec. 203 (b) (2) (Taxicab Exemption)
( ) Sec. 203 (b) (3) (Hotel Exemption)
( ) Sec. 203 (b) (4) (National Park Exemption)
( ) Sec. 203 (b) (4a) (Farm Exemption)
( ) Sec. 203 (b) (5) (Farm Cooperative Exemption)
( ) Sec. 203 (b) (6) (Commodities Exemption)
( ) Sec. 203 (b) (7) (Newspaper Exemption)
( ) Sec. 203 (b) (7a) (Air Transport Exemption)
( ) Sec. 203 (b) (8) (Municipal Exemption)
( ) Sec. 203 (b) (9) (Occasional Exemption)
( ) Sec. 203 (b) (10) (Emergency Tow Exemption)
( ) ______________ (Specify Other Exemption)

Type of Carrier:

( ) Property ( ) Passenger

____

Give Principal Office Address, if different than above:

Street __________________ City _________ State _________

If Individual, give name and address:

______________________ ______________________

If Corporation, give State in which incorporated: _________

Name of President _________ Name of Secretary ___________

If Partnership, give names and address of partners:

______________________ ______________________

______________________ ______________________

Process Agent for State:

Name ______________________ Street ___________________

City ______________________ State ____________________

I, the undersigned, under penalty for false statement, do hereby certify that the above information is true and correct and that I am authorized to execute and file this document on behalf of the above applicant. (State penalties as prescribed by law.)

____
Signature

____
Title

Instructions: File this application in duplicate. When application is approved, the copy will be returned to the applicant.

FORM B-1

UNIFORM APPLICATION FOR REGISTRATION AND IDENTIFICATION OF VEHICLE OR DRIVEAWAY OPERATIONS EXEMPT FROM ICC REGULATION

To: North Carolina Utilities Commission Date: ____________

Applicant ____

Street ____

City ______________________________ State ______________

The above described applicant hereby applies for the issuance of __________ (Number) identification stamp(s), or for the assignment of an identification number (as elected by the laws of the State), for the registration and identification of the vehicle or vehicles which the applicant intends to operate, or driveaway operations which it intends to conduct, within the borders of the State during the period for which such identification stamp(s) or number is effective. The operation of such vehicle or vehicles, or the conduct of such driveaway operations, shall be in accordance with the laws of the State.

The vehicle or vehicles which the applicant intends to operate or driveaway operations which it intends to conduct, within the borders of the State, are exempt from regulation by the Interstate Commerce Commission under the Interstate Commerce Act, as amended, pursuant to:

( ) Sec. 202 (c) (1) (Terminal Area Exemption)
( ) Sec. 202 (c) (2) (Terminal Area Exemption)
( ) Sec. 203 (a) (11) (Foreign Commerce Exemption)
( ) Sec. 203 (b) (1) (School Bus Exemption)
( ) Sec. 203 (b) (2) (Taxicab Exemption)
( ) Sec. 203 (b) (3) (Hotel Exemption)
( ) Sec. 203 (b) (4) (National Park Exemption)
( ) Sec. 203 (b) (4a) (Farm Exemption)
( ) Sec. 203 (b) (5) (Farm Cooperative Exemption)
( ) Sec. 203 (b) (6) (Commodities Exemption)
( ) Sec. 203 (b) (7) (Newspaper Exemption)
( ) Sec. 203 (b) (7a) (Air Transport Exemption)
( ) Sec. 203 (b) (8) (Municipal Exemption)
( ) Sec. 203 (b) (9) (Occasional Exemption)
( ) Sec. 203 (b) (10) (Emergency Tow Exemption)
( ) ________ ______ (Specify Other Exemption)

The applicant shall not knowingly permit any other person or organization to use the identification stamp(s) or number issued or assigned pursuant to this application.

I, the undersigned, under penalty for false statement, do hereby certify that the above information is true and correct and that I am authorized to execute and file this

document on behalf of the above applicant. (State penalties as prescribed by law.)

____
(Signature)

____
(Title)

FORM C-1

UNIFORM IDENTIFICATION CAB CARD FOR
VEHICLE OR DRIVEAWAY OPERATION EXEMPT FROM ICC REGULATION
OPERATING MOTOR CARRIER

Name of Carrier ________________________________

Street ______________________________________

City _______________________ State ______________

VEHICLE

Type _______________________ *Make ______________
Tractor-Truck-Bus-Driveaway

*Year _______________________ *Serial No. __________
**State of Vehicle Registration ______________________
*Name of Owner of Vehicle __________________________

The operation of the vehicle or conduct of the driveaway operation, described above, is exempt from regulation by the Interstate Commerce Commission under the Interstate Commerce Act, as amended, pursuant to:

( ) Sec. 202 (c) (1) (Terminal Area Exemption)
( ) Sec. 202 (c) (2) (Terminal Area Exemption)
( ) Sec. 203(a) (11) (Foreign Commerce Exemption)
( ) Sec. 203 (b) (1) (School Bus Exemption)
( ) Sec. 203 (b) (2) (Taxicab Exemption)
( ) Sec. 203 (b) (3) (Hotel Exemption)
( ) Sec. 203 (b) (4) (National Park Exemption)
( ) Sec. 203 (b) (4a) (Farm Exemption)
( ) Sec. 203 (b) (5) (Farm Cooperative Exemption)
( ) Sec. 203 (b) (6) (Commodities Exemption)
( ) Sec. 203 (b) (7) (Newspaper Exemption)
( ) Sec. 203 (b) (7a) (Air Transport Exemption)
( ) Sec. 203 (b) (8) (Municipal Exemption)
( ) Sec. 203 (b) (9) (Occasional Exemption)
( ) Sec. 203 (b) (10) (Emergency Tow Exemption)
( ) ________ ________ (Specify Other Exemption)

Such vehicle or driveaway operation has been registered in accordance with the laws of each State whose current identification stamp or number is placed on the reverse side of this card.

I, the undersigned, under penalty for false statement, do hereby certify that the above information is true and correct and that I am authorized to execute this document on behalf of the above carrier. (State penalties as prescribed by law.)

Signature ____________________

Title ____________________

Date Executed ____________________

This card expires at 12:01 A.M., February 1, 19__ or ______ ____ 19__, whichever is earlier.

---

* Not applicable to driveaway operations.

**If the State of vehicle registration changes during the period this cab card is effective, the motor carrier shall immediately indicate the change above by marking out the name of the State listed and inserting the name of the new State of vehicle registration in lieu thereof. This change shall be initialed by an official of the motor carrier.

(The reverse side of the Cab Card is the same as the back of the Form D Cab Card. See NARUC Bulletin No. 63-1966, p. 14.)

FORM E

UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY CERTIFICATE OF INSURANCE
(Executed in Triplicate)

Filed with ____________________ (hereinafter called
(Name of Commission)
Commission)

This is to certify, that the ____________________
(Name of Company)
(hereinafter called Company) of ____________________
(Home Office Address of
________ has issued to ____________________ of ________
Company) (Name of Motor Carrier) (Address
________________ a policy or policies of insurance effective
of Motor Carrier)
from ____________________ 12:01 A.M. standard time at the address of the insured stated in said policy or policies and continuing until cancelled as provided herein, which, by attachment of the Uniform Motor Carrier Bodily Injury and Property Damage Liability Insurance Endorsement, has or have been amended to provide automobile bodily injury and property damage liability insurance covering the obligations imposed upon such motor carrier by the provisions of the motor carrier law of the State in which the Commission has jurisdiction or regulations promulgated in accordance therewith.

Whenever requested, the Company agrees to furnish the Commission a duplicate original of said policy or policies and all endorsements thereon.

This certificate and the endorsement described herein may not be cancelled without cancellation of the policy to which it is attached. Such cancellation may be effected by the Company or the insured giving thirty (30) days notice in writing to the State Commission, such thirty (30) days notice to commence to run from the date notice is actually received in the office of the Commission.

Countersigned at ____
(Street Address) (City) (State) (Zip Code)

this _____ day of _______, 19____.

____
Authorized Company Representative

Insurance Company File No. ____________________
(Policy Number)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of Section 202(b)(2) of the Interstate Commerce Act (49 U.S. Code, Section 302(b)(2)).

FORM F

UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE ENDORSEMENT

It is agreed that:

1. The certification of the policy, as proof of financial responsibility under the provisions of any State motor carrier law or regulations promulgated by any State Commission having jurisdiction with respect thereto, amends the policy to provide insurance for automobile bodily injury and property damage liability in accordance with the provisions of such law or regulations to the extent of the coverage and limits of liability required thereby; provided only that the insured agrees to reimburse the company for any payment made by the company which it would not have been obligated to make under the terms of this policy except by reason of the obligation assumed in making such certification.

2. The Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance has been filed with the State Commissions indicated on the reverse side hereof.

3. This endorsement may not be cancelled without cancellation of the policy to which it is attached. Such cancellation may be effected by the company or the insured giving thirty (30) days notice in writing to the State Commission with which such certificate has been filed, such thirty (30) days notice to commence to run from the date the notice is actually received in the office of such Commission.

Attached to and forming part of policy No. ____________
issued by ______________________, herein called Company of
_______________________ to ____________________________
of _______________________.

Dated at ___________this _______ day of ______, 19______.
Countersigned by ____
(Authorized Company Representative)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of Section 202(b)(2) of the Interstate Commerce Act (49 U.S.C. Sec. 302 (b)(2)).

FORM G

UNIFORM MOTOR CARRIER BODILY INJURY AND PROPERTY DAMAGE LIABILITY SURETY BOND
(Executed in Triplicate)

KNOW ALL MEN BY THESE PRESENTS, That we, ______________
(Name of Motor
_______________________of _________, __________________, as
Carrier Principal) (City) (State)
Principal (hereinafter called Principal), and ____________
(Name of
____________, a corporation created and existing under the
Surety)
laws of the State of _____________, with principal office
at __________, ____________, as Surety (hereinafter called
(City) (State)
Surety), are held and firmly bound unto the State of _______
__________ in the sum or sums hereinafter provided for which payment, well and truly to be made, the Principal and Surety hereby bind themselves, their successors and assigns, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the Principal is or intends to become a motor carrier subject to the laws of such State and the rules and regulations of
____
(Name of Commission)
(hereinafter called Commission), relating to insurance or other security for the protection of the public, and has

elected to file with the Commission a surety bond conditioned as hereinafter set forth; and

WHEREAS, this bond is written to assure compliance by the Principal as a motor carrier of passengers or property with the laws of such State and the rules and regulations of the Commission relating to insurance or other security for the protection of the public, and shall inure to the benefit of any person or persons who shall recover a final judgment or judgments against the Principal for any of the damages herein described.

NOW, THEREFORE, if every final judgment recovered against the Principal for bodily injury to or the death of any person or loss of or damage to the property of others, sustained while this bond is in effect, and resulting from the negligent operation, maintenance, or use of motor vehicles in transportation (but excluding injury to or death of the Principal's employees while engaged in the course of their employment, and loss of or damage to property of the Principal and property transported by the Principal designated as cargo), shall be paid, then this obligation shall be void, otherwise to remain in full force and effect.

Within the limits hereinafter provided, the liability of the Surety extends to such losses, damages, injuries, or deaths regardless of whether such motor vehicles are specifically described herein and whether occurring on the route or in the territory authorized to be served by the Principal or elsewhere.

This bond is effective from ____________ (12:01 A.M., standard time, at the address of the Principal as stated herein) and shall continue in force until terminated as hereinafter provided. The Principal or the Surety may at any time terminate this bond by written notice to the Commission, such termination to become effective not less than thirty (30) days after actual receipt of said notice by the Commission. The Surety shall not be liable hereunder for the payment of any judgment or judgments against the Principal for bodily injury to or the death of any person or persons or loss of or damage to property resulting from accidents which occur after the termination of this bond as herein provided, but such termination shall not affect the liability of the Surety hereunder for the payment of any such judgment or judgments resulting from accidents which occur during the time the bond is in effect.

The liability of the Surety on each motor vehicle shall be the limits prescribed in the laws of such State and the rules and regulations of the Commission governing the filing of surety bonds, which were in effect at the time this bond was executed, and will be a continuing one notwithstanding any recovery hereunder.

IN WITNESS WHEREOF, the said Principal and Surety have executed this instrument on the ____ day of ______, 19__.

____
(Principal)

By ______________________________

(Affix Corporate Seal) ______________________________
(Surety)

______________, ______________
(City) (State)

By ______________________________

Countersigned at __________ this ____ day of _______, 19___.

Bond No. ________________ ______________________
Registered Resident Agent

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of Section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., Sec. 302(b)(2)).

FORM K

UNIFORM NOTICE OF CANCELLATION OF
MOTOR CARRIER INSURANCE POLICIES
(Executed in Triplicate)

Check Type Cancelled
BI and PD _____
Cargo _____

Filed with ____________________ (hereinafter called
(Name of Commission)
Commission).

This is to advise that under the terms of a policy or policies issued to ______________________________
(Name of Motor Carrier)

of ______________________________
(Address of Motor Carrier)

by ______________________________
(Name of Company)

of ______________________________
(Address)

said policy or policies, including any and all endorsements forming a part thereof or certificates issued in connection therewith, is (are) hereby cancelled effective as of the ________ day of ________, 19__, 12:01 A.M., standard time at the address of the Insured as stated in said policy or policies provided such date is not less than thirty (30)

days after the actual receipt of this notice by the Commission.

____
Signature of Insurer

Insurance Company File No. ________________
(Policy Number)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of Section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., Sec. 302(b)(2)).

FORM L

UNIFORM NOTICE OF CANCELLATION OF
MOTOR CARRIER SURETY BONDS
(Executed in Triplicate)

Check Type Cancelled:
BI and PD ____
Cargo ____

Filed with __________________ (hereinafter called
(Name of Commission)
Commission)

This is to advise that, under the terms of surety bond(s) executed in behalf of ______________________________
(Name of Principal)

of ____
(Address)

by ____
(Name of Surety)

of ____
(Address)

said bond(s), including any and all riders or certificates attached thereto or issued in connection therewith, is (are) hereby cancelled effective as of the ____ day of _________, 19____, 12:01 A.M. standard time at the address of the Principal as stated in said bond(s) provided such date is not less than thirty (30) days after the actual receipt of this notice by the Commission.

____
Signature of Principal or Surety

Insurance Company File No. ______________________
(Policy Number)

This form determined by the National Association of Railroad and Utilities Commissioners and promulgated by the Interstate Commerce Commission pursuant to the provisions of Section 202(b)(2) of the Interstate Commerce Act (49 U.S.C., Sec. 302(b)(2)).

DOCKET NO. M-100, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Amendments to Rules and Regulations of the Commission to Correct Technical and Procedural Provisions in Various Administrative Rules) ORDER ADOPTING RULE CHANGES

BY THE COMMISSION: Upon consideration of its rules and regulations and certain changes in the statutes of North Carolina and the administrative practices and procedures of the Commission indicating that various changes should be made in the rules and regulations of the Commission to conform with changes in the statutes and in the administrative practices and procedures of the Commission adopted pursuant to such statutory changes, and good cause appearing,

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Rule R1-26 relating to recommended decisions of the Commission is hereby amended by striking out the words "ten (10) days" appearing in lines two and three of subsection (c) of said rule relating to the time for filing exceptions to a Recommended Order, and by inserting in lieu thereof the words "fifteen (15) days".

2. That Rule R8-29 as it appears in the 1967 Cumulative Supplement to the Public Utility Laws and Rules and Regulations of the Commission is hereby amended by striking out the words "daily newspaper" appearing in line five of said rule and by inserting in lieu thereof the word "newspaper".

ISSUED BY ORDER OF THE COMMISSION.

This 15th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 23

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Amendments to the Rules and Regulations of the Commission to Increase the Number of Copies of Documents to be Filed in Commission Proceedings) ORDER ADOPTING RULE CHANGE

BY THE COMMISSION: Upon consideration of its rules and practices in regard to the number of copies of documents required to be filed in proceedings before the Commission and pursuant to the authority of the Commission under G.S. 62-31 to promulgate rules and regulations for practice before the Commission, and it appearing that the present rules of practice in Chapter 1 of the Commission's rules require that the original plus four copies be filed with regard to the following documents and rules: R1-5, Pleadings; R1-7, Motions; R1-9, Complaints; R1-15, Replies to Suspension Orders; R1-19 Interventions; R1-25, Briefs; and that six copies be filed under R1-24, Evidence; and four copies under R1-16, Securities Applications; and it further appearing that additions to the Commission Staff and revisions and improvements in the procedures observed by the Commission in investigating and processing matters pending before the Commission require additional copies of the above described documents for adequate consideration of matters before the Commission,

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the provisions in the Commission's Rules of Practice and Procedure requiring specified copies of documents to be filed in proceedings before the Commission are hereby amended by striking out the references to said number of copies of such documents as contained in the following rules:

R1-5(g), Pleadings
R1-7(c), Motions
R1-9(g), Complaints
R1-15(3), Replies to Suspension Orders
R1-16(a), Pledging Assets, Issuing Securities, etc.
R1-19(c), Interventions
R1-24(f)(3), Evidence
R1-25(c), Briefs

and by inserting in lieu of said provisions for the number of copies stated in the above sections the words "original, plus ten (10) copies".

2. Chapter 1 of the Commission's rules and regulations is hereby amended by adding a new rule at the end thereof to read as follows:

Rule R1-32. Exceptions to Number of Copies to be Filed. In any case where the provisions of this Chapter require the filing of the original plus ten (10) copies of any document and it appears that there is no reasonable or substantial need for said original plus ten (10) copies of documents under the procedures to be observed in the proceeding in which the document is to be filed, or where it is not feasible for other reasons to provide the original and ten (10) copies, upon request of the party filing the document or on its own motion, the Commission

may authorize a lesser number of copies by notifying the parties in writing of the number of copies to be filed."

ISSUED BY ORDER OF THE COMMISSION.

This 18th day of August, 1969.

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

DOCKET NO. M-100, SUB 24

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
The revision of Rule R2-46 of the Commission's Motor Carrier Regulations pursuant to G.S. 62-266(a) and Chapter 722 of the Session Laws of 1969) ORDER

The North Carolina Utilities Commission, acting under the power and authority delegated to it by law, hereby amends its Rule R2-46 to read as follows:

"Rule R2-46. Safety rules and regulations. The rules and regulations adopted by the U.S. Department of Transportation relating to safety of operation and equipment (49 CFR Parts 290-298 [formerly Parts 190-198] and amendments thereto) and the rules and regulations adopted by the U.S. Department of Transportation relating to hazardous materials (49 CFR Parts 170-190 [formerly Parts 71-79] and amendments thereto) shall apply to all motor carriers authorized by the North Carolina Utilities Commission or the Interstate Commerce Commission to operate over the highways of the State of North Carolina, including interstate exempt carriers of passengers and freight and exempt intrastate for hire passenger carriers."

and directs that the same shall be in full force and effect from and after September 15, 1969.

ISSUED BY ORDER OF THE COMMISSION.
This the 9th day of September, 1969.

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

DOCKET NO. M-100, SUB 25

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Revision of Rule R2-48 of the Commission's Motor Carriers Regulations to Revise the Classification of Motor Carriers of Property to Conform with the Uniform System of Accounts) ORDER AMENDING RULE R2-48

BY THE COMMISSION: The North Carolina Utilities Commission, acting under the power and authority delegated to it for the promulgation of rules and regulations for the enforcement of the Public Utilities Act, and upon consideration of its records and the Uniform Systems of Accounts adopted by the Interstate Commerce Commission for Class I, Class II, and Class III common and contract motor carriers of property, hereby adopts amendments to its Rule R2-48 to revise the classification of common and contract motor carriers of property to conform with the revision of the classification of common and contract motor carriers of property under the Uniform System of Accounts adopted by the Interstate Commerce Commission,

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. Rule R2-48(b) is hereby amended by striking out the words "and common and contract carriers of freight" appearing in line two of said subsection R2-48(b).

2. Rule R2-48 is hereby amended by redesignating subsection (c) and subsection (d) of said Rule as subsection (d) and subsection (e), respectively, and by inserting a new subsection (c) to read as follows:

"(c) For purposes of the accounting regulations common and contract carriers of property subject to the North Carolina Utilities Commission's jurisdiction are grouped into the following three classes:

Class I. Carriers having average gross operating revenues (including interstate and/or intrastate) of $1,000,000 or over annually, from motor carrier operations.

Class II. Carriers having average gross operating revenues (including interstate and/or intrastate) of $300,000 or over but under $1,000,000 annually, from motor carrier operations.

Class III. Carriers having average gross operating revenues (including interstate and/or intrastate) of

less than $300,000 annually, from motor carrier operations."

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. 4066-W

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Clarification of the term "fertilizer and fertilizer materials") ADMINISTRATIVE RULING

BY THE COMMISSION: In the early days of State motor carrier regulation, commodity descriptions set forth in certificates then granted to the transporters of dry fertilizer authorized the transportation of "fertilizer" or "fertilizer and fertilizer materials". Liquid fertilizer had not been develcped and its transportation by motor carriers had not yet begun. At the time these authorities were granted the commodity was defined in the Commission's then Rule 10 as follows:

"Group 8. <u>Fertilizer and Fertilizer Materials.</u> This group includes ordinary commercial fertilizer, fish scrap, lime, manure, and related soil fertilization materials in truck loads".

The Group 8 commodity descriptien was subsequently amended by inserting the word "dry" immediately preceding the word "fertilizer" and the words "fertilizer materials".

Dry fertilizer is transported almost entirely in flat bed trucks and the commodity has no unusual characteristics as to require special equipment or special handling.

Liquid fertilizer and liquid fertilizer materials are chemicals transported in tank trucks and, for the most part, fall within the classification of hazardous materials, the handling and transportation of which requires special equipment and a special knowledge of the danger involved. Carriers of such commodities are governed by the hazardous materials regulations of the Commission and must participate in the Dangerous Articles Tariff which contains said rules and regulations.

Thus, dry fertilizer and liquid fertilizer are two entirely different commodities, the only relation being that they are both used for the same purpose.

Upon consideration thereof, the Commission is of the opinion and finds that evidence of the past bona fide

operations and of public convenience and necessity presented at the time the authorities were granted justifies a finding that the commodities "fertilizer" and "fertilizer materials" wherever specified in a carrier's authority means "dry fertilizer" and "dry fertilizer materials".

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That the word or words "fertilizer" and "fertilizer materials", unless preceded by the word "liquid", wherever they may appear in certificates or permits heretofore issued by this Commission, are construed to mean "dry fertilizer" and "dry fertilizer materials".

(2) That any motor carrier holding a certificate or permit to transport fertilizer or fertilizer and fertilizer materials who desires to be heard in protest to this ruling may file such protest or motion on or before May 15, 1969, and shall be given opportunity to be heard and to present evidence on said protest or motion, for the purpose of amending said certificate or permit if found to be unlawfully prejudiced by this ruling.

(3) That this Administrative Ruling shall become effective on and after May 1, 1969.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of April, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. 4066-W

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Protest of Bracey's Transfer, Inc., Rowland, North Carolina; and Protest of C. W. Allen and J. F. Allen, d/b/a Allen Brothers Transfer Company, Kernersville, North Carolina, to Administrative Ruling clarifying the term "fertilizer and fertilizer materials" in General Order No. 4066-W) GENERAL ORDER

HEARD IN: The Commission's Hearing Room, Ruffin Building, Raleigh, North Carolina, on July 24, 1969, at 9:30 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Protestants:

R. W. Bracey, President
Bracey's Transfer, Inc.
Box 1, Rowland, North Carolina

C. W. Allen
Allen Brothers Transfer Company
Route 3
Kernersville, North Carolina 27284

For the Intervener:

L. J. Steele
M & M Tank Lines, Inc.
P. O. Box 11361, Greensboro, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Ruffin Building
Raleigh, North Carolina

BY THE COMMISSION: This proceeding arises upon the protests filed by Bracey's Transfer, Inc., Rowland, North Carolina; and C. W. Allen and J. F. Allen, d/b/a Allen Brothers Transfer Company, Kernersville, North Carolina, to the Administrative Ruling in General Order No. 4066-W issued by this Commission on April 17, 1969; which said order applied to, modified and further explained definitions of terms in the general area of "fertilizer and fertilizer materials".

In General Order No. 4066-W, this Commission noted that in the early days of State motor carrier regulation, commodity descriptions set forth in certificates then granted to the transporters of dry fertilizer authorized the transportation of "fertilizer" or "fertilizer and fertilizer materials". Liquid fertilizer had not been developed and its transportation by motor carriers had not yet begun. At the time these authorities were granted the commodity was defined in the Commission's then Rule 10 as follows:

> "Group 8. <u>Fertilizer and Fertilizer Materials.</u> This group includes ordinary commercial fertilizer, fish scrap, lime, manure, and related soil fertilization materials in truck loads".

The Group 8 commodity description was subsequently amended by inserting the word "dry" immediately preceding the word "fertilizer" and the words "fertilizer materials".

The Administrative Ruling in General Order No. 4066-W took note of the fact that dry fertilizer is transported almost

entirely in flat bed trucks and that the commodity has no unusual characteristics as to require special equipment or special handling and that liquid fertilizer and liquid fertilizer materials are chemicals transported in tank trucks and, for the most part, fall within the classification of hazardous materials, the handling and transportation of which requires special equipment and a special knowledge of the danger involved. It also pointed out that carriers of such commodities are governed by the hazardous materials regulations of the Commission and must participate in the Dangerous Articles Tariff which contains said rules and regulations. The Commission concluded that dry fertilizer and liquid fertilizer are two (2) entirely different commodities, with the only relation being that they are both used for the same purpose.

In its General Order, the Commission found that evidence of the past bona fide operations and of public convenience and necessity presented at the time the authorities were granted justified a finding that the commodities "fertilizer" and "fertilizer materials" wherever specified in a carrier's authority denoted "dry fertilizer" and "dry fertilizer materials"; and ordered that the word or words "fertilizer" and "fertilizer materials", unless preceded by the word "liquid", wherever they may appear in certificates or permits theretofore issued by this Commission, were construed to mean "dry fertilizer" and "dry fertilizer materials".

The Commission's order further provided that any motor carrier holding a certificate or permit to transport fertilizer or fertilizer and fertilizer materials who desired to be heard in protest to said ruling could file such protest or motion on or before May 15, 1969, and that such protestants would be given an opportunity to be heard and present evidence on said protest or motion, for the purpose of amending said certificate or permit if found to be unlawfully prejudiced by the ruling. The Administrative Ruling in General Order No. 4066-W became effective on and after May 1, 1969. On May 5, 1969, protest was filed by the Protestant, Allen Brothers Transfer Company; and on May 9, 1969, protest was filed by Bracey's Transfer, Inc.; each of said Protestants requested the right to be heard and offer evidence in connection therewith.

By Order dated June 25, 1969, the Commission scheduled the hearing for protests to said Administrative Ruling on July 24, 1969, at 9:30 A.M. in the offices of the Commission, Ruffin Building, Raleigh, North Carolina. Each of the Protestants were present for said hearing, testified and presented themselves in connection with their protest and motion.

R. W. Bracey, President, Bracey's Transfer, Inc., testified in his own behalf that Bracey's Transfer, Inc., had for several years been hauling liquid fertilizer and liquid fertilizer materials under its rights previously

granted by this Commission; that his company had equipment and experience in the hauling of liquid fertilizer and liquid fertilizer materials; and that his company was governed by the hazardous materials regulations and participated in the Dangerous Articles Tariff, contending that the Administrative Ruling, if applicable to their certificate, would unlawfully prejudice their vested interest, and requested that their certificate be amended to read liquid fertilizer and liquid fertilizer materials.

C. W. Allen, Partner, Allen Brothers Transfer Company, testified that his company held a certificate under Group 8, described as Fertilizer and Fertilizer Materials; that his company did not have any equipment for the hauling of liquid fertilizer or liquid fertilizer materials; that his company had never hauled any liquid fertilizer or liquid fertilizer materials and did not have any experience in the hauling of such items; that his company had not previously been governed by the hazardous materials regulations and did not participate in the Dangerous Articles Tariff; but that his company concluded that their rights should not be restricted by the Administrative Ruling and that such restrictions unlawfully prejudiced their vested interest in their certificate and moved the Commission that their certificate be amended to afford relief under General Order No. 4066-W. Mr. Allen further testified that his company had filed under the Dangerous Articles Tariff on November 7, 1968, but that they had at no time actually participated in the movement of such materials.

L. J. Steele, employee, M & M Tank Lines, Inc., testified as an Intervener that his company held a certificate authorizing it to transport liquid fertilizer and liquid fertilizer materials and requested that the Commission decline to enlarge the certificates of either or both of the Protestants to include such items since such enlargement would be unlawfully prejudicial to M & M Tank Lines, Inc.'s vested interest and their certificate.

The staff participated through Edward B. Hipp, Commission Attorney, but did not offer any evidence.

Based upon the entire record in this matter, the Commission makes the following

FINDINGS OF FACT

1. That prior to the issuance of General Order No. 4066-W the Protestants and each of them held common carrier certificates including the Group designated "Fertilizer and Fertilizer Materials".

2. That prior to the issuance of said General Order, Bracey's Transfer, Inc., participated in the hauling of liquid fertilizer and liquid fertilizer materials as well as dry fertilizer and dry fertilizer materials; that said Bracey's Transfer, Inc., was governed in their operations by

the hazardous materials regulations and participated in the Dangerous Articles Tariff over a period of many months; that said Bracey's Transfer, Inc., has equipment and experience in the transportation of liquid fertilizer and liquid fertilizer materials and a vested interest, through its certificate, in the continued right to haul liquid fertilizer and liquid fertilizer materials.

3. That Allen Brothers Transfer Company has never been governed by the hazardous materials regulations and has never participated in the Dangerous Articles Tariff prior to General Order No. 4066-W or prior to the filing of its protest in this case; that said Allen Brothers Transfer Company did file and became subject to the Dangerous Articles Tariff on November 7, 1968; that said Allen Brothers Transfer Company does not have any experience or equipment used in the hauling of liquid fertilizer and liquid fertilizer materials; and that Allen Brothers Transfer Company does not have a vested interest in the additional rights requested.

4. M & M Tank Lines, Inc., does hold certain common carrier authority in this State for the transportation of liquid fertilizer and liquid fertilizer materials.

Based upon the above findings of fact and the records of the Commission, we make the following

CONCLUSIONS

1. That Bracey's Transfer, Inc., would be unlawfully prejudiced by the Administrative Ruling of General Order No. 4066-W if its certificate were not amended to include liquid fertilizer and liquid fertilizer materials.

2. That Allen Brothers Transfer Company is not unlawfully prejudiced by the ruling established under General Order No. 4066-W and that its certificate should be subject to and bound by said General Order.

IT IS, THEREFORE, ORDERED:

1. That the certificate heretofore issued by this Commission to Bracey's Transfer, Inc., be, and the same is, hereby amended to read as specifically set forth in Appendix "A" attached hereto and made a part hereof.

2. That the protest and motion of the Protestant Allen Brothers Transfer Company be, and the same is, hereby dismissed and denied and it is ordered that said certificate be subject to and bound by the provisions of the Administrative Ruling set forth in General Order No. 4066-W.

IT IS FURTHER ORDERED That if at any time Allen Brothers Transfer Company is in a position to show that it is fit, willing and able to be governed by the hazardous materials regulations and participate in the Dangerous Articles Tariff

and properly transport <u>liquid</u> fertilizer and <u>liquid</u> fertilizer materials and that the public convenience and necessity requires the same, this Commission will, upon proper application, give the same appropriate consideration.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of August, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. 4066-W

Bracey's Transfer, Inc.
Box 1
Rowland, North Carolina

<u>Irregular Route Common Carrier Authority</u>

APPENDIX "A"

(1) Transportation, in truckloads, of cotton in bales; leaf tobacco from farms to markets; fertilizer and fertilizer materials, liquid or dry; peanuts, potatoes, corn, wheat, oats, hay, cotton seed, cottonseed meal, feeds, vegetables, fruits, melons, brick, cement and cinder building blocks, drain tile, lumber, plywood and veneer panels, furniture squares, gravel, lime, cement, sand, and cotton bagging and ties;

(a) To and from points and places within a radius of fifty miles of Rowland.

(b) From said area to points and places in North Carolina bounded on the west by U. S. Highway 29, on the north by U. S. Highway 70, on the east by the Atlantic Ocean, and on the south by the South Carolina State Line.

(c) From said destination territory to points and places within a radius of fifty miles of Rowland.

(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.

DOCKET NO. 4066-X

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Clarification of the commodity now described in certain certificates as "cotton waste") GENERAL) ORDER

It appearing, that the certificates of certain regulated motor carriers, namely, W. M. Martin, 1401 Seigle Street, Charlotte, North Carolina, and Textile Trucking Company, Inc., 636 Northside Drive, N. W., Atlanta, Georgia, authorize the transportation of a commodity described in said certificates as "cotton waste", and

It further appearing, that textile mills, who are the principal shippers of textile waste materials, now also produce synthetic products, the waste from which is synthetic rather than cotton, and

It further appearing, that synthetic waste is often gathered up and pressed in the same bales with cotton waste for shipping, and

It further appearing, that it is in the public interest that the certificates of the aforesaid carriers should be amended to the end that the commodity description will include both "cotton waste" and "synthetic waste" under the generic term "textile mill waste",

It is ordered, that the certificates of W. M. Martin, Charlotte, North Carolina, and Textile Trucking Company, Inc., Atlanta, Georgia, be amended by striking out any reference to cotton waste and substituting in lieu thereof

the term "textile mill waste, viz.: cotton or synthetic fiber, or mixtures thereof".

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of June, 1969.

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

DOCKET NO. E-100, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Petition of Carolina Power & Light Company)	
for Modification of Order of the North)	
Carolina Utilities Commission Entered on)	
January 14, 1963, in Docket No. E-100, Sub)	SUPPLEMENTAL
2, Pertaining to Accounting Procedure to be)	ORDER
Followed by Electric Companies in)	
Accounting for the Incentive/Investment Tax)	
Credit Arising from the Revenue Act of 1962)	

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, July 8, 1969

BEFORE: Harry T. Westcott, Presiding, and Commissioners John W. McDevitt and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Charles F. Rouse
Carolina Power & Light Company
Insurance Building
Raleigh, North Carolina

Samuel Behrends, Jr.
Carolina Power & Light Company
Insurance Building
Raleigh, North Carolina

H. Reid Thompson
Carolina Power & Light Company
Insurance Building
Raleigh, North Carolina

For the Using and Consuming Public:

George A. Goodwyn
Assistant Attorney General
Justice Building
Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Ruffin Building
Raleigh, North Carolina

Larry G. Ford
Associate Commission Attorney
Ruffin Building
Raleigh, North Carolina

No Protestants

BY THE COMMISSION: On April 30, 1969, Carolina Power & Light Company (Petitioner), filed with the Commission a Petition in which it requested a modification, as it applies to the Petitioner, of an Order of this Commission issued in this docket on January 14, 1963. On May 7, 1969, the Commission issued a Notice of Hearing in which the Petition was set to be heard on July 8, 1969, at 9:30 A.M. In accordance therewith, hearing was held in the Commission Hearing Room in Raleigh at the time and date fixed.

The 1963 Order prescribed the accounting procedure to be followed by electric utilities subject to our jurisdiction in accounting for the Incentive/Investment Tax Credit enacted by the Congress in the Revenue Act of 1962, as amended.

The essential provisions of our Order of January 14, 1963, provided for the amortization of each annual tax credit through 25 equal annual entries beginning with the year of the credit. Reduced to its essentials, the present Petition seeks authority for Petitioner to amortize the credits over a 5-year period beginning January 1, 1969, rather than the 25-year period as provided in our earlier Order. The Petition also asks that the provisions of our prior Order be modified to recognize interim changes made in the account numbers prescribed under the Uniform System of Accounts for the treatment of the Incentive/Investment Tax Credit.

At the hearing the Petitioner presented as its witness its Treasurer, James S. Currie, who testified in support of the allegations of the Petition.

Based upon the testimony presented and upon the financial statements and other records and information on file with the Commission with respect to the Petitioner's financial condition and operations, the Commission makes the following

FINDINGS OF FACT

1. The Petitioner is a public utility engaged in the generation, transmission, distribution and sale of electricity in the States of North Carolina and South Carolina and as such is subject to the jurisdiction of this

Commission, including jurisdiction over the accounting procedures of the Petitioner.

2. By an Order issued in this docket on January 14, 1963, the Commission prescribed the accounting treatment to be employed by electric utilities operating under its jurisdiction in accounting for the effect of the so-called Incentive/Investment Tax Credit arising under the provisions of the Revenue Act of 1962. The Petitioner has adopted and used such accounting procedures effective with the closing of the books of account for the year 1962 and at all times thereafter.

3. The rapid increases experienced by the Petitioner in the cost of capital, wages and equipment, freight carriage and coal prices are resulting in pressure on earnings which, in Petitioner's opinion, may affect adversely its ability to attract necessary capital for its continuing expansion program.

4. The modification requested by the Petitioner is reasonably appropriate to accomplish the purpose of the Petitioner in improving its level of earnings and is consistent with sound accounting principles.

CONCLUSIONS

The Commission finds and concludes that the modification of the Order entered herein on January 14, 1963, as requested in the Petition of the Petitioner, is reasonable and consistent with the public interest and ought to be authorized.

IT IS, THEREFORE, ORDERED

That the Order of the Commission issued in this docket on January 14, 1963, be modified, as it applies to the Petitioner, so that the portion of said Order providing for the accounting treatment of the Incentive/Investment Tax Credit shall read as follows:

(1) Tax expense and accrued taxes shall first be reduced by the amount of the reduction in tax expense due to the Incentive Tax Credit.

(2) Tax expense shall then be increased by the amount of the Incentive Tax Credit by debiting Account Number 411.1 - Investment Tax Credit Adjustments (Net).

(3) Account Number 255 - Accumulated Deferred Investment Tax Credits, shall be credited with the same amount of the Incentive Tax Credit as (2) above.

(4) The amount of the Incentive Tax credited each year (beginning with the year commencing on January 1, 1969) to Account Number 255 - Accumulated Deferred Investment Tax Credits, shall be amortized annually

to Account Number 411.1 - Investment Tax Credit Adjustments (Net), through five (5) equal annual entries beginning with the year of the Incentive Tax Credit.

(5) The balance in Account Number 255 - Accumulated Deferred Investment Tax Credits as of December 31, 1968, shall be amortized over five (5) years beginning January 1, 1969, to Account Number 411.1 - Investment Tax Credit Adjustments (Net).

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-100, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Duke Power Company for Modification of Order of the North Carolina Utilities Commission Entered on January 14, 1963, in Docket No. E-100, Sub 2, Pertaining to Accounting Procedure to be Followed by Electric Companies in Accounting for the Incentive/Investment Tax Credit Arising from the Revenue Act of 1962.) SUPPLEMENTAL ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, July 8, 1969

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Carl Horn, Jr.
Duke Power Company
422 South Church Street
Charlotte, North Carolina

W. H. Grigg
Duke Power Company
422 South Church Street
Charlotte, North Carolina

For the Using and Consuming Public:

George A. Goodwyn
Assistant Attorney General
Justice Building
Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Ruffin Building
Raleigh, North Carolina

Larry G. Ford
Associate Commission Attorney
Ruffin Building
Raleigh, North Carolina

No Protestants

BY THE COMMISSION: On April 15, 1969, Duke Power Company ("Petitioner"), filed with the Commission a Petition in which it requested a modification, as it applies to the Petitioner, of an Order of this Commission issued in this docket on January 14, 1963. On April 30, 1969, the Commission issued a Notice of Hearing in which the Petition was set to be heard on July 8, 1969, at 9:30 A.M. In accordance therewith, hearing was held in the Commission Hearing Room in Raleigh at the time and date fixed.

The 1963 Order prescribed the accounting procedure to be followed by electric utilities subject to our jurisdiction in accounting for the Incentive/Investment Tax Credit enacted by the Congress in the Revenue Act of 1962, as amended.

The essential provisions of our Order of January 14, 1963, provided for the amortization of each annual tax credit through 25 equal annual entries beginning with the year of the credit. Reduced to its essentials, the present Petition seeks authority for Petitioner to amortize the credits over a 5-year period beginning January 1, 1969, rather than the 25-year period as provided in our earlier Order. The Petition also asks that the provisions of our prior Order be modified to recognize interim changes made in the account number prescribed under the Uniform System of Accounts for the treatment of the Incentive/Investment Tax Credit.

At the hearing the Petitioner presented as its witness its Treasurer, Robert E. Frazer, who testified in support of the allegations of the Petition.

Based upon the testimony presented and upon the financial statements and other records and information on file with the Commission with respect to the Petitioner's financial condition and operation, the Commission makes the following

FINDINGS OF FACT

1. The Petitioner is a public utility engaged in the generation, transmission, distribution and sale of electricity in the States of North Carolina and South Carolina and as such is subject to the jurisdiction of this Commission, including jurisdiction over the accounting procedures of the Petitioner.

2. By an Order issued in this docket on January 14, 1963, the Commission prescribed the accounting treatment to be employed by electric utilities operating under its jurisdiction in accounting for the effect of the so-called Incentive/Investment Tax Credit arising under the provisions of the Revenue Act of 1962. The Petitioner has adopted and used such accounting procedures effective with the closing of the books of account for the year 1962 and at all times thereafter.

3. The rapid increases experienced by the Petitioner in the cost of capital, wages and equipment, freight carriage and coal prices are resulting in pressure on earnings which, in Petitioner's opinion, may affect adversely its ability to attract necessary capital for its continuing expansion program.

4. The modification requested by the Petitioner is reasonably appropriate to accomplish the purpose of the Petitioner in improving its level of earnings and is consistent with sound accounting principles.

CONCLUSIONS

The Commission finds and concludes that the modification of the Order entered herein on January 14, 1963, as requested in the Petition of the Petitioner, is reasonable and consistent with the public interest and ought to be authorized.

IT IS, THEREFORE, ORDERED

That the Order of the Commission issued in this docket on January 14, 1963, be modified, as it applies to the Petitioner, so that the portion of said Order providing for the accounting treatment of the Incentive/Investment Tax Credit shall read as follows:

(1) Tax expense and accrued taxes shall first be reduced by the amount of the reduction in tax expense due to the Incentive Tax Credit.

(2) Tax expense shall then be increased by the amount of the Incentive Tax Credit by debiting Account Number 411.1 - Investment Tax Credit Adjustments (Net).

(3) Account Number 255 - Accumulated Deferred Investment Tax Credits, shall be credited with the same amount of the Incentive Tax Credit as (2) above.

(4) The amount of the Incentive Tax credited each year (beginning with the year commencing on January 1, 1969) to Account Number 255 - Accumulated Deferred Investment Tax Credits, shall be amortized annually to Account Number 411.1 - Investment Tax Credit Adjustments (Net), through five (5) equal annual entries beginning with the year of the Incentive Tax Credit.

(5) The balance in Account Number 255 - Accumulated Deferred Investment Tax Credits as of December 31, 1968, shall be amortized over five (5) years beginning January 1, 1969, to Account Number 411.1 - Investment Tax Credit Adjustments (Net).

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-100, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of North Carolina Natural Gas Corporation for Modification of Order of the North Carolina Utilities Commission Entered on January 14, 1963, in Docket No. G-100, Sub 5, Pertaining to Accounting Procedure to be Followed by Gas Companies in Accounting for the Incentive/Investment Tax Credit Arising from the Revenue Act of 1962) SUPPLEMENTAL ORDER

BY THE COMMISSION: On September 15, 1969, North Carolina Natural Gas Corporation, filed with the Commission a Petition in which it requested a modification, as it applies to the Petitioner, of an Order of this Commission issued in this docket on January 14, 1963.

The 1963 Order prescribed the accounting procedure to be followed by gas utilities subject to our jurisdiction in accounting for the Incentive/Investment Tax Credit enacted by the Congress in the Revenue Act of 1962, as amended.

The essential provisions of our Order of January 14, 1963, provided for the amortization of each annual tax credit through twenty-five (25) equal annual entries beginning with the year of the credit. Reduced to its essentials, the

present Petition seeks authority for Petitioner to amortize the credits over a five (5) year period beginning October 1, 1968, rather than the twenty-five (25) year period as provided in our earlier Order.

Based on the facts presented in the petition and on the financial statements and other records and information on file with the Commission with respect to the Petitioner's financial condition and operations, the Commission makes the following

FINDINGS OF FACT

1. The Petitioner is a public utility engaged in the distribution and sale of natural gas in its franchised area and as such is subject to the jurisdiction of this Commission, including jurisdiction over the accounting procedures of the Petitioner.

2. By an Order issued in this docket on January 14, 1963, the Commission prescribed the accounting treatment to be employed by gas utilities operating under its jurisdiction in accounting for the effect of the so-called Incentive/Investment Tax Credit arising under the provisions of the Revenue Act of 1962. The Petitioner has adopted and used such accounting procedures effective with the closing of the books of account for the year 1962 and at all times thereafter.

3. The rapid increases experienced by the Petitioner in the cost of capital, wages, equipment and fuel are resulting in pressure on earnings, which, in Petitioner's opinion, may affect adversely its ability to attract necessary capital for its continuing expansion program.

4. The modification requested by the Petitioner is reasonably appropriate to accomplish the purpose of the Petitioner in improving its level of earnings and is consistent with sound accounting principles.

CONCLUSIONS

The Commission finds and concludes that the modification of the Order entered herein on January 14, 1963, as requested by the Petitioner, is reasonable and consistent with the public interest and should be authorized.

IT IS THEREFORE, ORDERED

That the Order of the Commission issued in this docket on January 14, 1963, be modified, as it applies to the Petitioner, so that the portion of said Order providing for the accounting treatment of the Incentive/Investment Tax Credit shall read as follows:

1. Tax expense and accrued taxes shall first be reduced by the amount of the reduction in tax expense due to the Incentive Tax Credit.

2. Tax expense shall then be increased by the amount of the Incentive Tax Credit by debiting Investment Tax Credit Adjustments (Net).

3. Accumulated Deferred Investment Tax Credits shall be credited with the same amount of the Incentive Tax Credit as (2) above.

4. The balance is Accumulated Deferred Investment Tax Credits as of September 30, 1968, shall be amortized over five (5) years beginning October 1, 1968, to Investment Tax Credit Adjustments (Net).

5. The amount of the Incentive Tax credited each year (beginning with the year commencing on October 1, 1968) to Accumulated Deferred Investment Tax Credits, shall be amortized annually to the account, Investment Tax Credit Adjustments (Net), through five (5) equal annual entries beginning with the year of the Incentive Tax Credit.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of September, 1969.

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

DOCKET NO. G-100, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Public Service Company of North Carolina, Inc., for Modification of Order of the North Carolina Utilities Commission Entered on January 14, 1963, in Docket No. G-100, Sub 5, Pertaining to Accounting Procedure to be Followed by Gas Companies in Accounting for the Incentive/Investment Tax Credit Arising from the Revenue Act of 1962) SUPPLEMENTAL ORDER

BY THE COMMISSION: On September 19, 1969, Public Service Company of North Carolina, Inc., filed through its Counsel, Boyce, Burns & Smith, Raleigh, North Carolina, a Petition in which it requested a modification, as it applies to the Petitioner, of an Order of this Commission issued in this docket on January 14, 1963.

The 1963 Order prescribed the accounting procedure to be followed by gas utilities subject to our jurisdiction in

accounting for the Incentive/Investment Tax Credit enacted by the Congress in the Revenue Act of 1962, as amended.

The essential provisions of our Order of January 14, 1963, provided for the amortization of each annual tax credit through twenty-five (25) equal annual entries beginning with the year of the credit. Reduced to its essentials, the present Petition seeks authority for Petitioner to amortize the credits over a five (5) year period beginning January 1, 1969, rather than the twenty-five (25) year period as provided in our earlier Order.

Based on the facts presented in the Petition and on the financial statements and other records and information on file with the Commission with respect to the Petitioner's financial condition and operations, the Commission makes the following

FINDINGS OF FACT

1. The Petitioner is a public utility engaged in the distribution and sale of natural gas in its franchised area and as such is subject to the jurisdiction of this Commission, including jurisdiction over the accounting procedures of the Petitioner.

2. By an order issued in this docket January 14, 1963, the Commission prescribed the accounting treatment to be employed by gas utilities operating under its jurisdiction in accounting for the effect of the so-called Incentive/Investment Tax Credit arising under the provisions of the Revenue Act of 1962. The Petitioner has adopted and used such accounting procedures effective with the closing of the books of account for the year 1962 and at all times thereafter.

3. The rapid increases experienced by the Petitioner in the cost of capital, wages, taxes, materials and gas purchased are resulting in pressure on earnings which, in Petitioner's opinion, may affect adversely its ability to attract necessary capital for its continuing expansion program.

4. The modification requested by the Petitioner is reasonably appropriate to accomplish the purposes of the Petitioner in improving its level of earnings and is consistent with sound accounting principles.

CONCLUSIONS

The Commission finds and concludes that the modification of the Order entered herein on January 14, 1963, as requested by the Petitioner, is reasonable and consistent with the public interest and should be authorized.

IT IS THEREFORE, ORDERED

That the Order of the Commission issued in this docket on January 14, 1963, be modified, as it applies to the Petitioner, so that the portion of said Order providing for the accounting treatment of the Incentive/Investment Tax Credit shall read as follows:

1. Tax expense and accrued taxes shall first be reduced by the amount of the reduction in tax expense due to the Incentive Tax Credit.

2. Tax expense shall then be increased by the amount of the Incentive Tax Credit by debiting Investment Tax Credit Adjustments (Net).

3. Accumulated Deferred Investment Tax Credits shall be credited with the same amount of the Incentive Tax Credit as "2" above.

4. The balance in Accumulated Deferred Investment Tax Credits as of December 31, 1968, shall be amortized over five (5) years beginning January 1, 1969, to Investment Tax Credit Adjustments (Net).

5. The amount of the Incentive Tax credited each year (beginning with the year commencing January 1, 1969) to Accumulated Deferred Investment Tax Credits, shall be amortized annually to the account, Investment Tax Credit Adjustments (Net), through five (5) equal annual entries beginning with the year of the Incentive Tax Credit.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of September, 1969.

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

DOCKET NO. P-100, SUB 22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Investigation of Nonrecurring Charges for)
Installations, Changes, Moves and Reconnects)
by Telephone Companies Operating within the) ORDER
State of North Carolina)

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on August 28, 1969, at 10 a.m.

BEFORE: Chairman Harry T. Westcott (Presiding) and Commissioners John W. McDevitt, Clawson L. Williams, Jr., M. Alexander Biggs, Jr., and Marvin R. Wooten

APPEARANCES:

For the Commission Staff:

Edward B. Hipp
Commission Attorney
N. C. Utilities Commission
Ruffin Building
Raleigh, North Carolina

For the Using and Consuming Public, Intervener:

George A. Goodwyn
Assistant Attorney General
Justice Building
Raleigh, North Carolina

BY THE COMMISSION: By order dated July 8, 1969, the North Carolina Utilities Commission instituted an investigation to determine whether or not the uniform tariffs now on file with the Commission pertaining to charges made by the telephone companies operating within the State of North Carolina under the jurisdiction of the Commission for installing, moving and reconnecting telephone service are just and reasonable and nondiscriminatory to the general body of existing telephone ratepayers. Under said order, all of said telephone companies were requested to have a representative present in the Hearing Room of the Commission at 10 a.m. on August 28, 1969, to offer such competent evidence as they might have pertaining to the justness and reasonableness of said tariffs. A hearing was held by the Commission at said time with representatives from practically all of the 29 telephone companies operating in North Carolina under the jurisdiction of this Commission. Also present was counsel for the Commission Staff and Mr. George A. Goodwyn, Assistant Attorney General, for the using and consuming public.

Pertinent parts of the sworn statements made by 16 of the telephone representatives present are summarized as follows:

1. Mr. A. L. Groce, representing Southern Bell Telephone and Telegraph Company, stated that his company installs, reinstalls or reconnects about six main service telephones for each main telephone gained; that since the present installation, move and reconnect charges were established in 1963 the wage rates of his company's employees have increased 31 percent per employee and the average investment expenditure (excluding the cost of the telephone instrument) for installing, reinstalling and reconnecting a telephone has risen from $22.10 in 1962 to $33.02 in 1968, more than 49 percent.

2. Mr. J. F. Havens, representing Carolina Telephone and Telegraph Company, stated that his company's labor for installing a main station had increased from $15.94 in 1963 to $20.03 in 1969, an increase of 25.66 percent. He also

stated that wage rates in his company have increased more than 25 percent since 1963 and that under a recent Union contract such increase will rise to more than 34 percent.

3. Mr. Sam Whalen, representing General Telephone Company of the Southeast (Durham) and General Telephone Company of North Carolina (Monroe), stated that the present service connection move and change charges in North Carolina cover about 26 percent of the cost of making such connection, moves or changes in Monroe and about 24 percent of such cost in Durham and that for General Telephone Company of the Southeast such average costs have increased from $19.36 in 1963 to $27.74 at present, an increase of 43 percent.

4. Mr. Phil Widenhouse, representing The Concord Telephone Company, stated that wage rates for his company's employees had increased more than one-third since 1962.

5. Mr. S. E. Leftwich, representing Central Telephone Company, stated that the average basic rate for the work force making telephone installations, moves and reconnections had increased 28 percent since May, 1963, and that associated plant employees' wages have increased over 40 percent since that time. The company's average cost for installing a new main station is $19.87 at present.

6. Mr. Arnold Snyder, representing Denton Telephone Company and Eastern Rowan Telephone Company, stated that based on a cost study made during the period June 1, 1969, through July 31, 1969, the cost of a new telephone installation was $40.42, the cost of a reinstallation was $29.35, the cost of a reconnection was $4.67, and the cost of moving and changing a telephone was $5.81.

7. Mr. William C. Hilton, representing North State Telephone Company, stated that his company experienced an average increase in service connection labor costs from 1963 to 1969 of approximately 30 percent.

8. Mr. John Futrell, representing Service Telephone Company, stated that his company's labor cost for installing telephones had increased 100 percent since 1963 and that material and transportation cost had increased 20 percent. His company's cost for installing a main station is presently $20.75.

9. Mr. J. M. Bigbee, representing United Telephone Company of the Carolinas, Inc., stated that wages for craft employees in his company had increased from 20 to 38 percent from 1963 to 1969, with an average increase of 30 to 35 percent during said period.

10. Mr. L. S. Blades III, representing The Norfolk & Carolina Telephone & Telegraph Company, stated that his company's labor cost for new telephone installations was

$7.33 in 1962 and $11.41 in 1969, for telephone reconnections was $3.67 in 1962 and $5.71 in 1969.

11. Mr. James E. Heins, representing Heins Telephone Company, stated that his company's labor costs associated with station connections increased 43.7 percent from 1963 to 1969 and that labor costs had increased from $9.90 in 1963 to $19.21 in 1969, an increase of 94 percent.

12. Mr. Benjamin H. Douglas, representing Thermal Belt Telephone Company, stated that the weighted hourly cost of making telephone installations was $5.06 per hour and that a reasonable and conservative time of more than two hours is involved in the handling of the average service order.

13. Mr. Charles Pickelsimer, representing Citizens Telephone Company, stated that his company's cost for installing a telephone had risen from $15.98 in 1963 to $26.62 at present, an increase of 60 percent.

14. Mr. S. M. Souther, representing Mooresville Telephone Company, stated that recent studies show that his company's cost of making telephone installations and reinstallations average $31.10 and that the average cost of inside telephone moves was $7.79.

15. Mr. William C. Harris, representing Lexington Telephone Company, stated that the cost of installing a new telephone in his company's system is up 49 percent over the cost in 1963 and that the cost of moving a telephone is up 23 percent. The average labor rate of his installers is up 28 percent.

16. Mr. A. A. Thomas, representing North Carolina Telephone Company, stated that for the first six months in 1963 versus a similar period in 1969 his total plant cost increased 44.6 percent. His company's capitalized cost per installation runs approximately $57.19.

In addition to those making statements as above mentioned, the following telephone company representatives were present and indicated concurrence in the statements given: Mr. W.R. Hupman of Mebane Home Telephone Company, Mr. W. M. Fitzgerald of Randolph Telephone Company, Mr. G. M. McKelvey of Western Carolina and Westco Telephone Companies, Mr. C.P. Lamm of Lee Telephone Company, Mr. J. L. Bennett of Ellerbe Telephone Company, Mr. E. O. Freeman of Sandhill Telephone Company and Mr. Charles Keiger of The Old Town Telephone System, Inc. The Commission was advised in advance that a representative of Saluda Mountain Telephone Company and Barnardsville Telephone Company would not be present.

FINDINGS OF FACT

Based upon the statements made at the hearing in this matter and upon other matters of record, of which the

Commission may properly take judicial notice, the Commission makes the following findings of fact:

1. That by order of the Commission in Docket No. P-100, Sub 13, issued on the 2nd day of April, 1963, the telephone companies operating in North Carolina under the jurisdiction of the North Carolina Utilities Commission were authorized to establish the following rates and charges:

"SERVICE CONNECTION CHARGES:

"Instrumentalities Not In Place

"Main Stations, Toll Terminals, Private Branch Exchange Trunks, Tie Lines Terminations and Foreign Exchange Stations, each --- $8.00

"Extension Stations, Private Branch Exchange Stations and Extension Bells and Gongs, each ---------------------------- $4.00

"Instrumentalities In Place

"Entire service or any instrument utilized or Private Branch Exchange Station, each ------ $4.00

"INSIDE MOVES AND CHANGES:

"Main Stations, Extensions, Private Branch Stations, Foreign Exchange Stations and Extension Bells and Gongs, each ------- $4.00

"RESTORATION OF SERVICE:

"Restoration of service suspended for non-payment of charges, each ------------------ $4.00"

2. That since the time said rates and charges were established in 1963, the 29 telephone companies operating in this State under the jurisdiction of this Commission have experienced substantial increases of more than 25 percent in the cost of labor and materials associated with the making of the connections, moves and changes and reconnections and restorations covered by said service connection charges.

3. That the cost of installing new telephones, of moving telephones from one place to another within a subscriber's premises and of reconnecting or restoring a telephone service suspended for nonpayment of charges is substantially higher for all companies than the authorized charge for making such installation move and reconnection.

4. That the telephone companies participating in this investigation have offered substantial, competent evidence to the effect that the rates and charges approved under the April 2, 1963, order in Docket No. P-100, Sub 13, are no longer just and reasonable for the services to which they

are made to apply, and such evidence has satisfied the Commission and it so finds that such charges are now unjust and unreasonable and should be adjusted upward in order to relieve the general body of existing telephone ratepayers from some of the cost associated with providing this service.

CONCLUSIONS

The installation of telephones, the moving of telephones within a subscriber's premises and the restoration of service after suspension for nonpayment of charges are integral parts of the operation of telephone systems, and it is essential to telephone system growth and development that such installations, moves and reconnections be available at prices and charges that will enable the systems to attract new subscribers and to keep existing subscribers satisfied. For this reason, the entire body of telephone ratepayers has an interest in the level of charges made for such telephone installations, moves and reconnections. On the other hand, it is recognized that the requirements of telephone subscribers for installations, relocations and reconnections vary, with some subscribers requiring such services quite frequently and with others never requiring same, and that there is justification for assessing the subscribers requiring such services with at least a part of the costs of providing same.

The Commission concludes that the rates and charges to be assessed for telephone installations, inside telephone moves and restoration of service should be at such level as will most nearly cover the cost of providing the service without discouraging subscribers from obtaining such needed service. The Commission further concludes (as it did in 1963) that the actual cost of providing this service is presently such that the assessment of the entire cost would discourage the growth and development of the business and that the establishment of charges below cost would not be discriminatory to the general body of ratepayers.

The service connection charges presently applied by the telephone companies operating in the State under this Commission's jurisdiction were found to be just and reasonable in proceedings conducted by the Commission in 1963. Since said time, these telephone companies have experienced substantial increases in labor and material costs, and it is now concluded that said service connection charges should be increased 25 percent.

IT IS, THEREFORE, ORDERED that the telephone companies operating in North Carolina are hereby authorized to file with the North Carolina Utilities Commission general exchange tariffs reflecting the following service connection charges:

SERVICE CONNECTION CHARGES:

Instrumentalities Not In Place

Main Stations, Toll Terminals, Private Branch Exchange Trunks, Tie Lines Terminations and Foreign Exchange Stations, each ----- $10.00

Extension Stations, Private Branch Exchange Stations and Extension Bells and Gongs, each ---------------------------------- $ 5.00

Instrumentalities In Place

Entire service or any instrument utilized or Private Branch Exchange Station, each -------- $ 5.00

INSIDE MOVES AND CHANGES:

Main Stations, Extensions, Private Branch Stations, Foreign Exchange Stations and Extension Bells and Gongs, each ------------ $ 5.00

RESTORATION OF SERVICE:

Restoration of service suspended for nonpayment of charges, each ---------------------- $ 5.00

IT IS FURTHER ORDERED that such charges may be made effective for billings on and after October 1, 1969.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. W-100, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Amendments to Chapter 7 of the Water Companies Rules and Regulations of the North Carolina Utilities Commission	) ORDER ADOPTING AMENDMENTS TO RULES FOR WATER COMPANIES

BY THE COMMISSION: The North Carolina Utilities Commission, acting under the power and authority delegated to it for the promulgation of rules and regulations for the enforcement of the Public Utilities Act, as provided in G.S. 62-31, issued its Order and Notice of Proposed Rule Making - Water, herein on July 16, 1969, instituting a rule-making proceeding with notice to all regulated water utility

companies operating under franchises from the North Carolina Utilities Commission, setting forth specific proposed amendments to Chapter 7 of the Rules and Regulations of the North Carolina Utilities Commission relating to water companies, summarized as follows:

Rule R7-2. Definitions. - (a). To add the 25 residential customer limitation in G.S. 62-3(23)a.2.

(d) Accidents. To add the definition for accidents to provide a basis for reporting accidents to the Commission.

(e) Interruptions of Service. To add a definition for reporting interruptions of service.

Rule R7-3. (b)(2) To add a provision for reporting accidents and interruptions of service to the Commission.

Rule R7-7. Adequacy of facilities. (a) Production. To require "adequate" equipment for all service needs.

(b) To require two wells for all systems serving more than 25 customers.

R7-8. Service interruptions. (a) Record. To require a record of all service interruptions.

R7-12. Quality of Water. (b) To require all water to meet standards of U.S. Public Health Drinking Water Statute - 1962.

Rule R7-20. To require five days notice before discontinuance of service in lieu of present requirement for 24-hours notice.

As provided in the Notice of Rule Making Proceeding, the Commission received and considered comments, suggestions and representations in favor of or against the proposed amendments filed on behalf of Duke Power Company, Spring Hill Water Company, Mrs. Jettie Faye Bostain, Catawba Water Supply, Inc., Coastal Plains Utility Company, Brookwood Water Corporation, LaGrange Waterworks Corporation, Crestview Water Company, Mount Vernon Park Water Company, and Regalwood Water Company. At the time and place for consideration of the proposed amendments on August 6, 1969, as provided in the Order and Notice of Proposed Rule Making, the Commission received statements from Mr. J. W. Hollis, Spring Hill Water Company, and Mr. M. T. Hatley, Jr., Duke Power Company.

The Commission has considered all of the objections to the proposed amendments and considers the following objections to the amendments well taken and that the proposed amendments should be modified based upon the written objections and the record of the hearing on the amendments:

(1) The requirement for two wells in subdivisions serving 25 customers would impose expenses which could not be justified in all subdivisions and could not be supported by reasonable rates in said subdivisions and is therefore amended so that the second well is required for specified subdivisions of more than 100 customers;

(2) The requirement for a report to the Commission of all interruptions in service is amended to provide that said reports shall be made for all interruptions in service of more than 2-hours duration, including scheduled interruptions as well as unscheduled interruptions; and

(3) The requirement that all water supplied to the public shall meet the U.S. Public Health Drinking Water Standards - 1962, is modified to provide that upon approval of the Commission in specific instances a water system may have specified tolerances or deviations for certain of the mineral content requirements of the U.S. Public Health Drinking Water Standards based upon regional water conditions.

Upon consideration of the record herein, the Commission is of the opinion that the proposed amendments to Chapter 7 of the water company rules and regulations, as modified in accordance with the above provisions, are in the public interest and should be approved,

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Rule R7-2 is hereby amended by rewriting subsection (a) and by adding subsections (b) and (e) as follows:

Rule R7-2. 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, distributing or furnishing water to the public for compensation, however, the term "public utility" shall not include any person, firm or company whose sole operation consists of selling water to less than twenty-five (25) residential water customers.

(d) Accidents. - Accidents as used herein are defined as other than motor vehicle accidents which do not create a service interruption that result in one or more of the following circumstances:

(1) Death of a person.

(2) Serious disabling to persons including employees of a company.

(3) Damage to the property of the company materially affecting its service to the public.

(4) Damage to the property of others amounting to more than $1,000.

(e) "Interruptions of Service" as used herein means any interruption to the water supply whereby at least twenty-five (25) customers have no water service for more than two (2) hours, whether scheduled or unscheduled.

2. That Rule R7-3 is hereby amended by adding a new subsection (c) to read as follows:

Rule R7-3.

(c) Each utility shall file monthly reports of accidents and interruptions of service of more than two (2) hours duration, whether scheduled or unscheduled, on Form N.C.U.C. W-2.

3. That Rule R7-7 is hereby amended by rewriting said Rule to read as follows:

Rule R7-7. Adequacy of facilities. - (a) Production. - All producing equipment must be sufficiently adequate to meet all normal as well as reasonable emergency demands for service.

(b) Water systems receiving franchises after September 1, 1969, which obtain their water supply from wells and furnish water to more than one hundred (100) customers, are required to have at least two wells connected to and supplying each separate water system, or to have approved overhead gravity storage tanks to maintain water service during service interruptions.

4. Rule R7-8 is hereby amended by rewriting subsection (a) thereof to read as follows:

Rule R7-8. Service interruptions. - (a) Record. - Each utility shall keep a record of all interruptions of service of more than two (2) hours duration, whether scheduled or unscheduled, affecting twenty-five (25) or more customers. A report of such interruptions shall be filed each month and shall be due in the offices of the Commission by the 15th day of the month following the month for which the report is required to be filed.

5. Rule R7-12 is hereby amended by rewriting said Rule to read as follows:

Rule R7-12. Quality of water. - (a) Every water utility shall comply with the rules of the State Board of Health governing purity of water, testing of water, operation of filter plant, and such other lawful rules as that Board may prescribe.

(b) All water being supplied by water utilities subject to the jurisdiction of the North Carolina

Utilities Commission is required, as a minimum, to meet the standards of water quality as set forth in the United States Public Health Drinking Water Standards - 1962; Provided, that upon application in writing to the Commission and approval of the Commission in writing, a water utility may have a specified deviation or tolerance from the mineral content requirements of said United States Public Health Drinking Water Standards - 1962, based upon regional water characteristics or conditions and upon the economic feasibility of providing treatment to the water or of locating alternate sources of water.

6. Rule R7-20 is hereby amended by rewriting subsections (c) and (e) to read as follows:

Rule R7-20.

(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 written notice of such intention, and that five (5) days, excluding Sundays and holidays, shall have been given the customer by the utility; provided, however, that where an emergency exists, or where fraudulent use of water is detected, or where a dangerous condition is found to exist on the customer's premises, the water may be shut off without such notice.

(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 (5) days' written notice, excluding Sundays and holidays, to the customer.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of August, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 175

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 Facilities at its Asheville Steam Electric Plant in Buncombe County, North Carolina	) ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

BY THE COMMISSION: This proceeding was instituted on March 18, 1969, by the filing of an Application by Carolina Power & Light Company for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct additional steam electric generating facilities as set forth in the Application. By Order of the Commission issued March 24, 1969, a Notice to Public was issued herein, which notice has been duly published once a week for four successive weeks in the Asheville Citizen, a daily newspaper of general circulation in Buncombe County, North Carolina, as required by G.S. 62-82, as appears from the Affidavit of Publication filed in this cause. No complaints 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 additional steam electric generating facilities at its Asheville Steam Electric Plant in Buncombe 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 February 28, 1969, the Company owned and operated seven steam electric generating plants with a net capability, including internal combustion turbine generators, of 2,780,000 KW and four hydroelectric generating plants with a net capability of 213,500 KW. The Company has under construction at its H. B. Robinson Steam Electric Generating Plant, near Hartsville, South Carolina, an additional generating unit with initial capability of 700,000 KW, which is scheduled for completion in May, 1970.

3. Including power available on a firm commitment basis, its total system capability as of February 28, 1969, was 2,867,800 KW, while its firm load peak demand had reached 2,834,800 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). It is anticipated that greater reliability and economy of electric service will be realized by each of the participants in the operation of the pool by the strengthening of transmission systems and interconnections, the installation of larger and more efficient generating units, and the reduction of the margin of reserve generating capacity heretofore maintained by the respective participants in the pool.

5. The Company needs and proposes to construct at its Asheville Steam Electric Plant at Skyland in Buncombe County, North Carolina, an additional 194,000 KW net coal fired turbine generator unit for operation by May, 1971, to provide the capacity for the planned normal load growth of its system and as additional generating capacity for the CARVA Pool, which unit is the most economical type of generating capacity that the Company can provide to supply its load requirements.

6. The Company has financial ability to pay for the construction and installation of the generating unit described in the preceding paragraph which is estimated to cost $28,000,000.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction by the Company of the additional generating unit hereinafter described, in that (a) such facility would provide additional generating capacity to meet the estimated increased requirements of the Company's customers; (b) it is the most economical and dependable type of generating capacity that the Company can provide by May, 1971, for this purpose; and (c) it will enable the Company to provide its proportionate share of increased reserve generating capacity required in the operation of the CARVA Pool that will coordinate best with the operation of the base load nuclear facilities being installed.

IT IS, THEREFORE, ORDERED that Carolina Power & Light Company be, and it is hereby, authorized to construct and operate at its Asheville Steam Electric Plant at Skyland in

Buncombe County, North Carolina, the following described additional generating facilities:

One 194,000 KW net capability unit No. 2 addition to the Asheville Steam Electric Plant. This unit will consist principally of one outdoor type reheat condensing turbine, driving a hydrogen-cooled generator and one outdoor type pulverized coal fired steam generator including fans, electrostatic precipitator and 393 foot chimney. The generator is rated 20,000 volts and will be connected to the Company's 115,000 volt transmission system through a transformer bank and an extension to the existing switchyard. Controls for the unit will be located in the existing plant control room adjacent to the No. 1 unit controls. Principal fuel for the unit will be coal and the existing fuel handling facilities will be extended to serve unit No. 2.

IT IS FURTHER ORDERED that this Order constitute a Certificate of Public Convenience and Necessity for the construction and operation of these facilities.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of May, 1969.

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

DOCKET NO. E-2, SUB 177

BEFORE THE NORTH CAROLINA UTIIITIES 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 Authoriz-) CERTIFICATE
ing Construction of Additional Generating) OF PUBLIC
Facilities at its W.H. Weatherspoon Steam) CONVENIENCE
Electric Generating Plant in Robeson County,) AND
North Carolina) NECESSITY

BY THE COMMISSION: This proceeding was instituted on July 23, 1969, by the filing of an application by Carolina Power & Light Company for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct additional generating capacity as set forth in the application. By Order of the Commission issued July 28, 1969, a Notice to Public was issued herein, which notice has been duly published once a week for four successive weeks in The Robesonian, a daily newspaper of general circulation in Robeson County, North Carolina, as required by G.S. 62-82, as appears from the Affidavit of Publication now filed in this cause. No complaints 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 additional electric generating facilities at its W.H. Weatherspoon Steam Electric Generating Plant near Lumberton in Robeson 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 June 30, 1969, the Company owned and operated seven steam electric generating plants with a net capability, including internal combustion turbine generators of 2,895,000 KW; and four hydroelectric generating plants with a net capability of 213,500 KW; and it had under construction the following units:

At the H.B. Robinson Steam Electric Generating Plant, near Hartsville, South Carolina, an additional generating unit with initial capability of 663,000 KW, which is scheduled for completion in May, 1970.

At the Asheville Steam Electric Generating Plant, near Skyland, North Carolina, an additional generating unit with capability of 2,000,000 KW, which is scheduled for completion in May, 1971.

At a site near Southport, North Carolina, two generating units with capability of 821,000 KW each, which are scheduled for completion in 1974 and 1976.

3. Including power available on a firm commitment basis, its total system capability as of July 16, 1969, was 3,212,000 KW, while its firm load peak demand had reached 3,032,000 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 W.H. Weatherspoon Steam Electric Generating Plant, near Lumberton, in Robeson County, North Carolina, additional generating facilities 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 units, which are estimated to cost $6,400,000.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction and installation by the Company of the additional generating facilities hereinafter described, in that (a) such facilities will provide standby generating capacity for the start up of the steam electric generating units at the W.H. Weatherspoon Steam Electric Generating Plant, in the event of system outage; (b) they will be available to supply peaking power requirements on the Company's system; (c) they will serve as a part of the Company's reserve generating capacity; (d) they are the most economical and dependable type of generating capacity which the Company can provide immediately for those purposes; and (e) those facilities are 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 W.H. Weatherspoon Steam Electric Generating Plant near Lumberton, Robeson County, North Carolina, the following described additional electric generating facilities:

Two internal combustion turbine generator units of 38,000 KW net capacity each to be located at the existing W.H. Weatherspoon Steam Electric Generating Plant near Lumberton, North Carolina. The two units and their auxiliary equipment will be installed on a concrete foundation at ground elevation and will be enclosed in a metal building 159 feet long by 46 feet 1 inch wide. Two oil to air lubricating oil coolers will be appropriately located beside the building and connected to the units. The generators will operate at 13.8 KV and will be connected to the existing 110 KV operating bus through a 13.8 KV/110 KV step-up transformer rated 90,000 KVA. The controls for operating the turbine generators will be inside the unit enclosure; however, facilities for remote control of the units from the steam plant control room will be installed. Fuel for the two units will be natural gas and No. 2 fuel oil. A storage tank for the fuel oil will be located near the existing steam plant fuel

facilities. Gas will be piped from the existing gas company reducing metering station.

IT IS FURTHER ORDERED that this Order constitute a Certificate of Public Convenience and Necessity for the installation and operation of these facilities.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of September, 1969.

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

DOCKET NO. E-2, SUB 178

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 Facilities at its Roxboro Steam Electric Generating Plant in Person County, North Carolina	) ORDER GRANTING) CERTIFICATE OF) PUBLIC CONVENIENCE) and NECESSITY

BY THE COMMISSION: This proceeding was instituted on July 29, 1969, by filing of an application by Carolina Power & Light Company for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct additional generating capacity as set forth in the application. By Order of the Commission issued July 30, 1969, a Notice to Public was issued herein, which notice has been duly published once a week for four successive weeks in The Courier-Times, a 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 complaints 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 additional electric generating facilities 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 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 June 30, 1969, the Company owned and operated seven steam electric generating plants with a net capability, including internal combustion turbine generators, of 2,895,000 KW and four hydroelectric generating plants with a net capability of 213,500 KW; and it had under construction the following units:

At the H.B. Robinson Steam Electric Generating Plant, near Hartsville, South Carolina, an additional generating unit with initial capability of 663,000 KW, which is scheduled for completion in May, 1970.

At the Asheville Steam Electric Generating Plant, near Skyland, North Carolina, an additional generating unit with capability of 200,000 KW, which is scheduled for completion in May, 1971.

At a site near Southport, North Carolina, two generating units with capability of 821,000 KW each, which are scheduled for completion in 1974 and 1976.

3. Including power available on a firm commitment basis, its total system capability as of July 16, 1969, was 3,212,000 KW, while its firm load peak demand had reached 3,032,000 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 720,000 KW net coal fired turbine generator unit for operation by May, 1973, to provide the capacity for the planned normal load growth of its system and as additional generating capacity for the CARVA Pool, which unit is the most economical type of generating capacity that the Company can provide for these purposes.

6. The Company has financial ability to pay for the construction and installation of the additional generating units, which are estimated to cost $90,000,000.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction by the Company of the additional generating unit hereinafter described, in that (a) such facilities will provide the generating capacity needed to meet the Company's expected load by May, 1973; (b) such facilities are the most economical and dependable type of generating capacity which the Company can provide in time to meet its projected load; (c) such facilities are required to maintain adequate and dependable electric service for the Company's customers, and to provide its proportionate share of increased generating capacity requirement for the operation of the CARVA Pool.

IT IS, THEREFORE, ORDERED that Carolina Power & Light Company be, and it is hereby, authorized to construct and operate at its Roxboro Steam Electric Generating Plant in Person County, North Carolina, the following described additional generating facilities:

> One 720,000 KW net capability Unit No. 3 addition to the Roxboro Steam Electric Generating Plant. This unit will consist principally of one outdoor type reheat condensing turbine, driving a hydrogen-cooled generator and two outdoor type pulverized coal-fired steam generators including fans, electrostatic precipitators and 400 foot chimney. The generator is rated 24,000 volts and will be connected to the Company's 230,000 volt transmission system through a transformer bank and an extension to the existing switchyard. Controls for the unit will be located in the existing plant control room adjacent to the No. 1 Unit and No. 2 Unit controls. Principal fuel for the unit will be coal and the existing fuel handling facilities will be extended to serve Unit No. 3.

IT IS FURTHER ORDERED that this Order constitute a Certificate of Public Convenience and Necessity for the construction and operation of these facilities.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 179

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 Facilities at its L.V. Sutton Steam Electric Generating Plant in New Hanover County, North Carolina	) ORDER) GRANTING) CERTIFICATE) OF PUBLIC) CONVENIENCE) AND) NECESSITY

BY THE COMMISSION: This proceeding was instituted on August 12, 1969, by the filing of an application by Carolina Power & Light Company for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct additional generating capacity as set forth in the application. By Order of the Commission issued August 18, 1969, a Notice to Public was issued herein, which notice has been duly published once a week for four successive weeks in <u>The Wilmington Star</u>, 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 complaints 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 additional electric generating facilities at its L.V. Sutton Steam Electric Generating Plant 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 June 30, 1969, the Company owned and operated seven steam electric generating plants with a net capability, including internal combustion turbine generators, of 2,895,000 KW and four hydroelectric generating plants with a net capability of 213,500 KW; and it had under construction the following units:

At the H.B. Robinson Steam Electric Generating Plant, near Hartsville, South Carolina, an additional generating unit with initial capability of 663,000 KW, which is scheduled for completion in May, 1970.

At the Asheville Steam Electric Generating Plant, near Skyland, North Carolina, an additional generating unit with capability of 200,000 KW, which is scheduled for completion in May, 1971.

At a site near Southport, North Carolina, two generating units with capability of 821,000 KW each, which are scheduled for completion in 1974 and 1976.

In addition, the Company possesses Certificates of Public Convenience and Necessity for the construction of the following:

One 720,000 KW net capability Unit No. 3 addition to its Roxboro Steam Electric Generating Plant, near Roxboro, North Carolina.

Two 38,000 KW internal combustion turbine generating units at its W.H. Weatherspoon Steam Electric Generating Plant, near Lumberton, North Carolina.

3. Including power available on a firm commitment basis, its total system capability as of August 1, 1969, was 3,254,000 KW, while its firm load peak demand had reached 3,055,000 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 in New Hanover County, North Carolina, an additional 420,000 KW net capability oil fired turbine generator unit for operation by May, 1972, to provide the capacity for the planned normal load growth of its system and as additional generating capacity for the CARVA Pool, which unit is the most economical type of generating capacity that the Company 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 $48,000,000.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction by the Company of the additional generating unit hereinafter described, in that (a) such facility would provide additional generating capacity to meet the estimated increased requirements of the Company's customers; (b) it is the most economical and dependable type of generating capacity that the Company can provide by May, 1972, to operate at continuous maximum, or near maximum, capability to supply the Company's base load requirements; and (c) it is the type of generating facility which will best coordinate with the peaking generating facilities which the Company has installed or is planning to install in order to provide the most economical arrangement for power supply to the Company's customers and to provide its proportionate share of increased generating capacity required in the operation of the CARVA Pool.

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

One 420,000 KW net capability Unit No. 3 addition to the L.V. Sutton Steam Electric Generating Plant. This unit will consist principally of one outdoor type reheat condensing turbine, driving a hydrogen-cooled generator and one outdoor type oil-fired steam generator including fans, dust collectors and 400 foot chimney. The generator is rated 24,000 volts and will be connected to the Company's 230,000 volt transmission system through a transformer bank and a 230,000 volt switchyard to be constructed adjacent to the existing 110,000 volt switchyard. The two switchyards will be connected by a 230,000/110,000 volt transformer bank. Controls for the unit will be located in the existing plant control room adjacent to the No. 1 Unit and No. 2 Unit controls. Principal fuel for the unit will be No. 6 fuel oil initially with provisions for the future conversion to coal.

IT IS FURTHER ORDERED that this Order constitute a Certificate of Public Convenience and Necessity for the construction and operation of these facilities.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 110

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Duke Power Company for Certificate of Public Convenience and Necessity under Chapter 287, 1965 Session Laws of North Carolina (G.S. 62-110.1) Authorizing Construction of New Generating Capacity on Belews Creek in Stokes County, North Carolina	ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

BY THE COMMISSION: This proceeding was instituted on May 2, 1969, by the filing of Application by Duke Power Company for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct new generating capacity on Belews Creek in Stokes County, North Carolina. By Order of the Commission dated May 19, 1969, public notice has been duly published once a week for four (4) successive weeks in The Greensboro Daily News and The Winston-Salem Journal Sentinal, daily newspapers of general circulation in Stokes County, North Carolina, as appears from the Affidavits of publication now on file in this cause. No complaint or written protest to the granting of the request of Duke Power Company ("Company") for a Certificate of Public Convenience and Necessity to construct new electric generating facilities on Belews Creek in Stokes County, North Carolina, have been filed within the time specified in such notices. 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 such 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, and is a public utility operating in North and South Carolina where it is engaged in the business of generating, transmitting, distributing and selling electric power and energy.

2. As of the summer of 1969, the Company will have installed 4,722,800 kw of base load, steam electric generating capacity; and the following peaking capacity: combustion turbine (12 units) 369,000 kw and hydro-electric generating capacity of 862,359 kw for a combined total generating capacity of 5,954,159 kw, and the Company has under construction 3,340,000 kw of steam electric generating capacity and 445,000 kw of hydro-electric generating capacity.

3. The Company's facilities are directly interconnected with the neighboring electric utilities and the Company is a member of the CARVA Pool.

4. The Company needs and proposes to construct two steam electric generating units, each with a nominal rating of about 1050 mw and expected capability of 1144 mw net, to be located at a new station near Belews Creek in Stokes County, North Carolina, for its own use and for additional generating capacity for its allocated proportion of the CARVA Pool requirements.

5. The Company's estimated firm load peak demand for the summer of 1974 plus requirements for reserve capacity, will reach approximately 10,900,000 kw. These forecasts make it necessary for the Company to install the new generating capacity described above in order to meet this anticipated load and maintain an adequate reserve margin of generating capacity. These steam electric generating units represent the most reliable and economical type of base load capacity that can be brought into service in time to meet the projected load.

6. The Company has financial ability to pay for construction and installation of the new generating units which are presently estimated to cost $269,347,000.00.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction and installation by the Company of the new generating capacity hereinafter described, in that (a) such facilities will provide the generating capacity to meet the expected load forecast of the Company for the years 1974 and 1975; (b) such facilities are the most economical and dependable type of generating capacity which the Company can provide in time to meet its projected load; and (c) such facilities are required to maintain adequate and dependable electric service for the Company's customers, and to provide its proportionate share of increased generating capacity requirement for the operation of the CARVA Pool.

IT IS, THEREFORE, ORDERED:

1. That Duke Power Company is authorized to install and operate on Belews Creek in Stokes County, North Carolina, two steam electric generating units, each with a nominal rating of 1050 mw and expected capacity of 1144 mw net. Each generating unit will consist of coal-fired boiler equipment, a steam turbine, an electric generator and the necessary auxiliary equipment. The output of the generating units will be delivered through step-up transformers to the Company's 230 kv system. An artificial lake will be constructed by impoundment of Belews Creek to provide a source of cooling water for the generating units and to effectively dissipate heat from the station's condensers.

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 15th day of July, 1969.

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

DOCKET NO. E-7, SUB 113

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

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

BY THE COMMISSION: This proceeding was instituted on June 13, 1969, by the filing of Application by Duke Power Company for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct additional generating capacity at its existing Cliffside Steam Station in Rutherford County, North Carolina. By Order of the Commission dated June 17, 1969, and modified by Order of July 14, 1969, public notice has been duly published once a week for four (4) successive weeks in the Forest City Courier, a newspaper of general circulation in Rutherford County, North Carolina, as appears from the Affidavit of Publication now on file in this cause. No complaint or written protest to the granting of the request of Duke Power Company ("Company") for a Certificate of Public Convenience and Necessity to construct additional electric generating facilities has 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 such 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, and is a public utility operating in North and South Carolina where it is engaged in the business of generating, transmitting, distributing and selling electric power and energy.

2. As of the summer of 1969, the Company presently plans to have installed 4,722,800 kw of base load, steam electric

generating capacity; and the following peaking capacity; combustion turbine (12 units) 369,000 kw and hydroelectric generating capacity of 862,359 kw for a combined total generating capacity of 5,954,159 kw. For service after 1969, the Company has under various stages of construction 3,340,000 kw of steam electric generating capacity and 445,000 kw of hydroelectric generating capacity, or a total of 3,785,000 kw.

3. The Company's facilities are directly interconnected with neighboring electric utilities and the Company is a member of the CARVA Pool.

4. The Company needs and proposes to construct one steam electric generating unit with a nominal rating of about 575 mw to be located at its existing Cliffside Steam Station in Rutherford County, North Carolina, for its own use and for additional generating capacity for its allocated portion of the CARVA Pool requirements.

5. The Company's estimated firm load peak demand for the summer of 1972 plus requirements for reach capacity, will reach approximately 9,000,000 kw. These forecasts make it necessary for the Company to install the additional generating capacity described in order to meet this anticipated load and maintain an adequate reserve margin of generating capacity. In addition, the steam electric generating unit described in paragraph 4, above, represents the most reliable and economical type of base load capacity that can be brought into service in time to meet the projected load.

6. The Company has financial ability to pay for construction and installation of the new generating unit which is presently approximately $75,000,000.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction and installation by the Company of said additional generating capacity hereinafter described, in that (a) such facilities will provide the generating capacity needed to meet the Company's expected load for the summer of 1972; (b) such facilities are the most economical and dependable type of generating capacity which the Company can provide in time to meet its projected load; and (c) such facilities are required to maintain adequate and dependable electric service for the Company's customers, and to provide its proportionate share of increased generating capacity requirement for the operation of the CARVA Pool.

IT IS, THEREFORE, ORDERED:

1. That Duke Power Company is authorized to construct, operate, and maintain the following additional electric

generating capacity at its existing Cliffside Steam Station in Rutherford County, North Carolina:

One steam electric generating unit consisting of coal-fired boiler equipment, a steam turbine, an electric generator and the necessary auxiliary equipment, the output of which will be delivered through step-up transformers to Applicant's 230 kv system, together with a cooling tower to provide a source of cooling water for the generating unit and to effectively dissipate heat from the unit's condensers.

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

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of August, 1969.

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

DOCKET NO. E-22, SUB 112

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Virginia Electric and Power Company for Certificate of Public Convenience and Necessity under Chapter 287, 1965 Session Laws of North Carolina (G.S. 62-110.1) Authorizing Construction of Two 25.4 Megawatt Oil Fired Combustion Turbine Driven Electric Generators to be Located Adjacent to its 115 KV Substation at Kitty Hawk, North Carolina) ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

BY THE COMMISSION: The proceeding was instituted on September 15, 1969, by the filing of an application by Virginia Electric and Power Company for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct additional generating capacity as set forth in the application. By Order of the Commission issued September 23, 1969, a Notice to Public was issued herein, which notice has been duly published once a week for four successive weeks in <u>The Coastland Times</u>, a daily newspaper of general circulation in Dare County, North Carolina, as required by G.S. 62-82, as appears from the Affidavit of Publication now filed in this cause. No complaints or written protests to the granting of the Application of Virginia Electric and Power Company ("Company") for a Certificate of Public Convenience and Necessity to construct additional electric generating facilities adjacent to its Kitty Hawk Substation at Kitty Hawk, in Dare 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 700 East Franklin Street, Richmond, Virginia, and is a public utility operating in North Carolina and Virginia, where it is engaged in generating, transmitting, delivering, and furnishing electricity to the public for compensation.

The Company's facilities are interconnected with those of Duke Power Company, South Carolina Electric & Gas Company, and Carolina Power & Light 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).

3. The Company needs and proposes to install promptly at a location adjacent to its Kitty Hawk Substation at Kitty Hawk, North Carolina, in Dare County, North Carolina, additional generating facilities of the internal combustion turbine generator type for its own use in providing for system peaking and in providing adequate generation for the Outer Banks area in the event service by the 115 KV line to the area, described below, is interrupted and as additional generating capacity of the CARVA Pool. These facilities are the most economical type of generating equipment which it can provide for these purposes. The scheduled commercial service date for this equipment is April 1, 1970.

4. Electricity is normally supplied to the Outer Banks area of North Carolina via a 115 KV transmission line that extends from Shawboro, North Carolina, to Kitty Hawk and terminates in Company's substation adjacent to two existing diesel generating units. These two diesel units are used to serve a portion of the load in the Outer Banks area. The combined generating capacity of these two units is not sufficient to serve the peak demands of the Outer Banks area. These units will be retired after the proposed additional capacity becomes available.

5. Total construction and installation costs of the proposed additional generating capacity will be approximately $5,700,000. This amount includes installation of two oil fired combustion generating units, auxiliary equipment, transformers and substation facilities, fuel oil unloading and handling equipment and a fuel oil storage tank of 1,250,000 gallon capacity, land acquisition and other

associated charges. The Company has financial ability to pay for the construction and installation of these units.

CONCLUSIONS

The Commission finds and concludes that public convenience and necessity require construction and installation by the Company of the additional generating facilities hereinafter described, in that (a) such facilities will be available to supply peaking power requirements on the Company's system; (b) they will provide adequate generation for the Outer Banks area in the event that service via the 115 KV line is interrupted; (c) they are the most economical and dependable type of generating capacity which the Company can provide immediately for those purposes; and (d) those facilities are required to maintain dependable electric service for Company's customers, and will serve as a part of the Company's reserve generating capacity as well as a proportionate share of increased reserve generating capacity required in the operation of the CARVA Pool.

IT IS, THEREFORE, ORDERED that Virginia Electric and Power Company be, and it hereby is authorized to install and operate at Kitty Hawk, Dare County, North Carolina, the following described additional electric generating facilities:

Two internal combustion turbine generator units of 25.4 megawatt capacity each to be located adjacent to the Kitty Hawk Substation near Kitty Hawk, North Carolina. These units will replace the two existing diesel units which have become inadequate. Fuel for the two units will be oil.

IT IS FURTHER ORDERED that this Order constitute a Certificate of Public Convenience and Necessity for the installation and operation of these facilities.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of November, 1969.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Katherine M. Peele, Deputy Clerk

DOCKET NO. ES-36

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Joint Application of Carolina Power & Light Company,) ORDER
Pee Dee Electric Membership Corporation, and)
Randolph Electric Membership Corporation, and Pine-)
hurst, Incorporated, for Assignment of Areas in)
Moore County)

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on Friday, March 21, 1969, at 10:50 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 Applicants:

Charles F. Rouse
Carolina Power & Light Company
336 Fayetteville Street
Raleigh, North Carclina
For: Carolina Power & Light Company

Hugh A. Wells
Crisp, Twiggs & Wells
P. O. Box 1549, Raleigh, North Carolina
For: Randolph Electric Membership Corporation

For the Protestants:

E. O. Brodgen, Jr.
Attorney at Law
P. O. Box 231, Southern Pines, North Carolina
For: Huntington Indcstries
Uniroyal, Inc.
John F. and Mary Jane Grimm

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney
Ruffin Building
Raleigh, North Carclina

BY THE COMMISSION: This matter arises from joint application filed by Carolina Power & Light Company, Pee Dee Electric Membership Corporation, Randolph Electric Membership Corporation and Pinehurst, Incorporated, on November 8, 1968, seeking assignment of electric distribution territories in Moore County among the supplier applicants in accordance with negotiated agreements among the parties pursuant to G.S. 62-110.2(c) and rules thereto.

The Commission set a public hearing on this application and directed that the applicants publish a public notice in a newspaper having general circulation in the areas affected in accordance with Commission Rule R8-29. The notice provided that the hearing was tc be held in the Commission Hearing Room, Raleigh, North Carolina, at 10:00 o'clock A.M. on March 21, 1969, and that anyone desiring to intervene or to file protests to the proposed assignment of territories was required to file their intervention or protests with the

Commission at least ten (10) days prior to the hearing date; and further provided that if no one intervened or filed protests to the application by March 11, 1969, the Commission would determine the application on the facts set forth therein and the public records available in the Commission files without holding a public hearing; and further provided that a map filed with the Commission showing the proposed territory assignment would be available for inspection in the offices of the North Carolina Utilities Commission and the offices of Carolina Power & Light Company, Southern Pines; Moore County Courthouse, Carthage, North Carolina; and Steed's Furniture Store, Robbins, North Carolina.

The notice of hearing was published in the Pilot Newspaper, Moore County, for four (4) consecutive weeks beginning on December 4, 1968.

Protests to the proposed assignments were filed on March 11, 1969, by John F. Grimm and Mary Jane Grimm of Carthage, North Carolina, and by Huntington Industries and Uniroyal, Inc. The Commission, by letter of March 18, 1969, advised all parties to the action that in view of these protests a public hearing would be held and that the scope of the hearing would be limited to the protests of said parties, unless other property owners appeared at the public hearing and requested to be heard.

The hearing was held on March 21, 1969, with no further protestants or intervenors present. The scope of the hearing was confined to the protests of John F. Grimm, Mary Jane Grimm, Uniroyal and Huntington Industries.

At the hearing the protestants offered testimony by John F. Grimm who stated that he owned approximately seventy-six (76) acres of land about one mile from the city limits of Carthage, and that from his observations of the map filed with the Commission, identified as Exhibit A, approximately 1/2 of his property would be in the Carolina Power & Light Company's territory and the other half in the Randolph Electric Membership Corporation's territory. He further testified that Uniroyal and Huntington Industries had an option to purchase this tract of land. From evidence received from Mahlon Moore of Huntington Industries, it appears that both companies are considering the building of plants in the area with Uniroyal furnishing plastic to Huntington Industries.

Randolph Electric Membership Corporation presented evidence by Mr. Alton Wall, Manager of Randolph EMC located in Asheboro. He testified that he was familiar with the general area involved in this protest and that he participated in the negotiations with CP&L as to the respective areas requested for assignment. He described the general area as being near Killet's Creek in the vicinity of State Road No. 1240 and then drops down approximately 100 feet along Randolph EMC's line which runs with State Road

No. 1256, and then goes from the end of this line in a southerly direction to the end of CP&L's line on Road No. 1248. Mr. Wall stated that Randolph has a three-phase line feeder down to Road No. 1242 and then a southeasterly direction to Eastwood with the general area being served at the present time by single-phase lines that feed off this said three-phase line. Randolph EMC presently proposes a slight rephasing of the line which will allow them to serve an industrial load with an adequate, dependable source of power.

Based upon the evidence offered at the hearing and from the joint application, the Commission makes the following

FINDINGS OF FACT

(1) That Randolph and Pee Dee are electric membership corporations duly organized and existing under the laws of the State of North Carolina, with Pee Dee's principal office and place of business being in Wadesboro, North Carolina, and Randolph's principal office and place of business being in Asheboro, North Carolina.

(2) That Carolina Power & Light Company 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 in Raleigh, North Carolina.

(3) That Pinehurst, Incorporated is a corporation duly organized and existing under the laws of the State of North Carolina, and operates as a public utility among other business activities with its principal office and place of business in Pinehurst, North Carolina.

(4) That all 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 assignment of service areas in accordance with public convenience and necessity pursuant to Section 62-110.2(c) of the General Statutes of North Carolina, and are authorized to operate and do operate in Moore County, North Carolina.

(5) That all of the above-named applicants are, and for many years have been, rendering reliable and adequate electric service to retail customers in Moore County, and each of the applicants owns, maintains and operates electric facilities of various kinds in the County. Carolina Power & Light also renders wholesale electric service in Moore County.

(6) That the applicants have been negotiating over a period of several months concerning Moore County, and as a result of these negotiations, a joint agreement has been reached by all four applicants covering all areas of Moore County which lie outside the corporate limits of municipalities and more than 300 feet from the lines of any

electric supplier, excepting that portion of central and northeastern parts of Moore County which have been assigned by the Utilities Commission in the combined area assignment proceedings in Docket No. E-2, Sub 145, and EC-58, Sub 2, and excepting a very small portion in the southeastern section of Moore County as to which CP&L and Lumbee River EMC are conducting negotiations, and said unincluded areas are marked on the map attached hereto as Exhibit A by large crosshatched lines.

(7) That the applicants have prepared a map of Moore County, which through appropriate legends designates the areas that the applicants have agreed to under the joint agreement, designates the areas that are requested to be unassigned, and also designates the areas of Moore County which are not in any respect involved in the application, said map being identified as Exhibit A and incorporated herein by reference. Exhibit A was signed by the representatives of all the applicants and shows the lines of all suppliers in Moore County as set out on the official Mylar map of such county filed with the Commission.

(8) That the assignment of service areas and unassigned service areas as provided for in Exhibit A will serve public convenience and necessity.

(9) That John F. Grimm and Mary Jane Grimm, protestants in this matter, own seventy-six (76) acres of land about one mile from the city limits of Carthage, North Carolina, in a southwesterly direction, said land being in the general area of State Roads Nos. 1240 and 1256 and near Killet's Creek.

(10) That the Grimms have reason to believe that approximately 1/2 of their seventy-six (76) acres will be in CP&L's service area and 1/2 will be in Randolph EMC's service area if this application is approved in its entirety.

(11) That the protestants Uniroyal and Huntington Industries have an option to purchase the Grimms' seventy-six (76) acres in order that they might construct two adjacent buildings.

(12) That neither Uniroyal nor Huntington Industries has a preference for receiving power from Randolph or CP&L but each of these industries desire to have only one power supplier for each of their initial plant buildings and each desire that this same power supplier also be able to serve any of their additional plant buildings which may be constructed on the same seventy-six (76) acre plant site complex.

(13) That from the evidence presented, it is not possible to accurately describe the boundaries of this small seventy-six (76) acre plot on the map identified as Exhibit A.

(14) That is not practicable at this time for the Commission to assign to any electric supplier the approximate seventy-six (76) acres owned by John F. Grimm and Mary Jane Grimm.

CONCLUSIONS

The North Carolina General Assembly in 1965 enacted General Statute 62-110.2 which section (c)(1) reads as follows

"In order to avoid unnecessary duplication of electric facilities, the Commission is authorized and directed to assign, as soon as practicable after January 1, 1966, to electric suppliers all areas, by adequately defined boundaries, that are outside the corporate limits of municipalities and that are more than 300 feet from the lines of all electric suppliers as such lines exist on the dates of the assignments; provided that the Commission may leave unassigned any area in which the Commission, in its discretion, determines that the existing lines of two or more electric suppliers are in such close proximity that no substantial avoidance of duplication of facilities would be accomplished by assignment of such area. The Commission shall make assignments of areas 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, but not considering rate differentials among electric suppliers."

The evidence and application in this matter show that the applicants have negotiated with great care in an effort to reach the proposed assignment in Moore County, which assignment provides the maximum of efficient and dependable service in the areas based upon the public convenience and necessity. The Commission is of the opinion that the proposal as submitted by the applicants should be approved except as to the seventy-six (76) acres owned by John F. Grimm and Mary Jane Grimm approximately one mile from the city limits of Carthage in a southwesterly direction near State Roads No. 1240 and 1256. The applicants themselves have agreed to leave some areas unassigned, which the Commission approves; however, as the law clearly states, the Commission is authorized and directed to assign as soon as practicable to electric suppliers areas by adequately defined boundaries that are outside the corporate limits of municipalities and that are more than 300 feet from the lines of all electric suppliers as such lines exist on the dates of assignment. The Commission is of the opinion that it is not now practicable to assign the above described seventy-six (76) acres and that this area should be left unassigned at the present time. Because of the smallness of the area in controversy in relation to the scale of the map entitled as Exhibit A, Exhibit A is accepted by the

Commission as accurately defining the service area boundaries with the exception as noted below.

IT IS, THEREFORE, ORDERED that the joint application of Carolina Power & Light Company, Pee Dee Electric Membership Corporation and Randolph Electric Membership Corporation and Pinehurst, Incorporated for assignment of electric service areas in Moore County be approved, except as hereinafter stated; provided that the seventy-six (76) acres owned by John F. Grimm and Mary Jane Grimm, located approximately one mile from the city limits of Carthage, North Carolina, be left unassigned at the present time. The Commission reserves the right to require metes and bounds narrative description of the territories herein assigned and the complete or partial location of all boundaries on the ground should the same, in its discretion, become necessary or appropriate.

ISSUED BY ORDER OF THE COMMISSION.
This the 24th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Katherine M. Peele, Deputy Clerk

DOCKET NO. ES-37

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Joint Application of Blue Ridge Electric Membership Corporation and Mountain Electric Cooperative for Assignment of Areas in Watauga County) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on Friday, March 21, 1969, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt and M. Alexander Biggs, Jr.

APPEARANCES:

For the Applicants:

Ted G. West
West & Groome
Attorneys at Law
P. O. Box 282, Lenoir, North Carolina
Appearing for: Blue Ridge Electric Membership Corporation

For the Protestants:

John H. Bingham
Attorney at Law

P. O. Box 375, Boone, North Carolina
Appearing for: B. C. Ward

BY THE COMMISSION: This matter arises from joint application filed by Blue Ridge Electric Membership Corporation (hereinafter referred to as "BLUE RIDGE") and Mountain Electric Cooperative, Inc. (hereinafter referred to as "MOUNTAIN") on November 12, 1968, seeking assignment of electric distribution territories in Watauga County among the supplier applicants in accordance with negotiated agreements among the parties pursuant to G.S. 62-110.2(c) and rules thereto.

The Commission set public hearings on the application and directed the publication of public notice in newspapers having general circulation in the areas affected in accordance with its Rule R8-29.

The public notice directed to be published contained the following proviso:

"Notice to the public is further given that the Commission has scheduled hearing on this application to be held in the Hearing Room of the Commission, Raleigh, North Carolina, at 10:00 A.M. on the 21st day of March, 1969, and that anyone desiring to intervene in the matter or desiring to protest the proposed assignment of territory is required to file such intervention or protest with the North Carolina Utilities Commission, Post Office Box 991, Raleigh, North Carolina, at least ten days prior to the date of hearing, as above set forth.

Notice to the public is further given that if no one intervenes or files any protest to the application by March 11, 1969, the Commission will determine the application on the facts set forth therein and the public records available to it in the Commission files without holding public hearing."

The required notice was published by Applicants in compliance with Commission requirements.

Following publication of the Notice, a protest was filed on March 11, 1969, by B. C. Ward through his Attorney, Mr. John H. Bingham. No interventions were sought nor any other protests received.

In view of the aforesaid protest, public hearing was then scheduled and held with parties and counsel present, all as captioned. There being no other interventions or protests, the scope of the hearing was confined to the service area requested to be assigned to B. C. Ward.

The protestant contends, through his Attorney, that the Commission gave him the authority, in an Order dated February 5, 1934, to serve any customers he might have for

electrical power within an area of five miles radii from his power plant.

Mr. Ward further contends that his right to serve has never been released or revoked and that he should be protected in that the right was originally granted to him. The Protestant alleges that he did serve customers within this area until the 1940 flood in Watauga County destroyed his generating plant. He contends that he has now reconstructed his power plant and stands ready to continue service in the area and at this time is supplying his own building and, partially, a planing plant that he owns. He argues that his rights as granted in 1934 should be protected should he desire to supply power to customers in the area.

From the application and the evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACTS

1. BLUE RIDGE 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 in Lenoir, North Carolina. MOUNTAIN is an electric membership corporation duly organized and existing under the laws of the State of Tennessee by virtue of Certificate of Corporation chartered March 24, 1941, and domesticated in the State of North Carolina on July 20, 1945. MOUNTAIN makes no claim or request of assignment of the particular area in controversy in this proceeding.

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 assignment 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. BLUE RIDGE and MOUNTAIN are authorized to operate and do operate in Watauga County, and are, and for many years have been, rendering reliable and adequate electric service to their numerous members in this County.

4. BLUE RIDGE and MOUNTAIN entered into and conducted negotiations with respect to Watauga 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 areas in the county 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 the Commission under Section 62-110.2(c) of the General Statutes of North Carolina.

5. A map of Watauga County was filed as Exhibit A to the application, said map, through appropriate symbols and legends, designating the areas which Applicants request the Commission to assign to BLUE RIDGE and to MOUNTAIN ELECTRIC and also designating certain areas requested to be unassigned as to any electric supplier. Exhibit A was signed by representatives of all the Applicants and shows the lines of all suppliers in Watauga County as set out on the official Mylar map of such county filed with the Commission.

6. New River Light and Power Company of Boone, North Carolina, while not an "electric supplier" as defined by Section 62-110.2(a)3, of the General Statutes of North Carolina, is an agency owned and operated by the State of North Carolina which furnishes electric services to customers located in and immediately adjacent to the City of Boone, North Carolina, in Watauga County. New River Light and Power Company obtains its power at wholesale rates by contractual agreement with BLUE RIDGE. Said agency was invited and did take part in the negotiations concerning service territory with the applicant, BLUE RIDGE, and the two parties agreed upon its respective territory. Exhibit "B", filed with the joint application, is a map of the County of Watauga, North Carolina, and through use of and by reference to the legends thereon, correctly shows the areas which BLUE RIDGE and said agency have agreed to request the Commission to leave unassigned as service area for the New River Light and Power Company.

7. The Protestant, B. O. Ward, did petition the Commission and was given the right to serve his neighbors in Commission Order dated February 5, 1934. The Order issued at that time read as follows:

COPY

IN RE: PETITION OF B. O. WARD)
OF VALLE CRUCIS, N. C., FOR)
AUTHORITY TO INSTALL GENERATING) ORDER
PLANT AND SELL ELECTRIC POWER TO)
THE PUBLIC)

This is petition from B. O. Ward of Valle Crucis, N.C., who at the present time has a small electric plant to serve his own premises and now, since his neighbors desire to have electric lights and have requested that he furnish same, he has applied for authority to increase the capacity of his generating plant to the point where he can furnish his neighbors who may desire such service. The Commission has investigated this matter by correspondence and is satisfied that the granting of the petition is in the public interest; therefore, it is

ORDERED, That the petition be granted within the limits of the application as outlined in letter of February 1st, 1934, and previous correspondence.

This fifth day of February, 1934.

BY ORDER OF THE COMMISSIONER.

s/ Stanley Winborne
Utilities Commissioner

s/ R. O. Self
Chief Clerk

8. The letter of February 1, 1934, referred to in the above Order, could not be located. The Protestant alleges, and it was not disputed, that an area of five (5) miles radii from his power plant was designated as an area in which he could provide power to anyone desiring his electric service.

9. Mr. B. O. Ward has not served anyone other than himself since the occurrence of the 1940 flood of the Watauga River in Watauga County. This flood destroyed the dam and generating plant from which Mr. Ward was providing power. The dam was not rebuilt until approximately five (5) or six (6) years ago and it consists of a water wheel and generator powered by the flow of the Watauga River.

10. Since the 1940 flood, BLUE RIDGE has constructed lines within the disputed area and to the residences of Mr. Ward's neighbors and also to Mr. Ward's own planing plant and residence. Mr. Ward has a switching arrangement at the site of his property which enables him to take power from either BLUE RIDGE or his own power plant.

11. For a period of approximately twenty-three (23) years, Mr. Ward was not in a position to supply either supplemental or firm electric power service to anyone. Following the rebuilding of his dam, Mr. Ward has not filed with the Commission, as required by the Laws of North Carolina, any tariffs or schedules of rates which he would propose to charge to anyone who might desire his service.

Pursuant to the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

The Commission finds and concludes that the assignment of the area designated by appropriate symbols and legends on the maps filed with the joint application as Exhibits A and B is in accord with public convenience and necessity.

The Protestant, Mr. B. O. Ward, does not now furnish electric service to anyone other than himself and has not shown in this hearing that he has the plant facilities which

would enable him to supply firm, adequate and reliable electric power in the area in which he has requested to be assigned to him. Also, he has failed to comply with the Laws of North Carolina in that he has not filed and kept on file with the Commission applicable tariffs or schedules of rates. B. O. Ward is not an "electric supplier" furnishing electric service under 62-110.2(a)(3) of the North Carolina General Statutes.

ACCORDINGLY IT IS ORDERED

1. That the application of BLUE RIDGE and MOUNTAIN for area assignment be, and the same hereby is, approved. The areas in Watauga County situated more than three hundred feet from the lines of any electric supplier and outside the corporate limits of any municipality are assigned to the respective applicants or designated as unassigned, all as shown on Exhibits A and B attached to the application, incorporated herein by reference. The Commission reserves the right to require metes and bounds narrative description of the territories herein assigned and the complete or partial location of all boundaries on the ground should the same, in its discretion, become necessary or appropriate.

ISSUED BY ORDER OF THE COMMISSION.
This the 10th day of June, 1969.

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

DOCKET NO. E-32, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Davenport Power & Light Company -) ORDER APPROVING LEASE
Adequacy and Sufficiency of its) AND OPTION TO PURCHASE
Services)

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on April 22, 1969, at 9:30 a.m.

BEFORE: Chairman Harry T. Westcott, Commissioners M. Alexander Biggs, Jr. (Presiding), John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Respondent:

Martin L. Cromartie, Jr.
Attorney at Law
118 East St. James Street
Tarboro, North Carolina 27886

For the Intervenors:

George A. Goodwyn
Assistant Attorney General
Ruffin Building
Raleigh, North Carolina 27602
For: The Using and Consuming Public

Robert D. Rouse, Jr.
Lewis & Rouse
131 N. Main Street
Farmville, North Carolina
For: Pitt & Greene Electric Membership
Corporation

Marvin V. Horton
Bridgers, Horton & Britt
201 E. Pitt Street
Tarboro, North Carolina
For: Edgecombe-Martin Electric Membership
Corporation

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Ruffin Building
Raleigh, North Carolina 27602

This proceeding comes before the Commission on the Order of the Commission entered March 26, 1969, setting hearing on the lease and option to sell Davenport Power & Light Company (hereinafter called "Davenport") to Pitt & Greene Electric Membership Corporation (hereinafter called "Pitt & Greene") and Edgecombe-Martin Electric Membership Corporation (hereinafter called "Edgecombe-Martin").

Hearing was duly held in the Commission Hearing Room in Raleigh, North Carolina, on April 22, 1969, and the parties as shown above were present and represented by counsel. The hearing consolidated the two issues before the Commission in this docket; (1) the determination if the contract of lease and sale filed with the Commission on March 17, 1969, as amended, satisfies the investigation herein relating to adequacy of service to the customers in the franchise area of Davenport under the principal findings of the Commission relating to adequacy of service in its Order of November 19, 1968, and (2) the issue as to whether said proposed contract of lease with purchase option complies with the provisions of G.S. 62-110 and G.S. 62-111 relating to approval of transfer of utility franchises or acquisition or control of franchises.

No protests were received to the Petition of the respondent Davenport and the intervenors Pitt & Greene and Edgecombe-Martin for approval of said lease and option to

purchase and no one appeared at the hearing in protest to the granting of said Petition.

At the call of the hearing, the Commission received and allowed certain amendments to the Petition for Intervention and Application for Proposed Contract of Lease with Purchase Option which were duly filed by Edgecombe-Martin and Pitt & Greene on April 21, 1969, including amendments to the contract of lease and option to purchase and the filing of a contract between Edgecombe-Martin and Pitt & Greene for division of the service area of Davenport by the said two electric membership corporations.

The intervenors Edgecombe-Martin and Pitt & Greene offered testimony of the managers of said two electric membership corporations and the testimony of a consulting professional engineer employed to survey the Davenport system for said two membership corporations, and to design improvements and additions to said system to bring it into compliance with the Commission Order of November 19, 1968, and to provide improved service to residents of the Davenport service area. Public witnesses residing in the Davenport service area testified as to their previous experience with poor service from Davenport and in support of the proposed lease with option to purchase the Davenport system by the two membership corporations.

Based upon said testimony and exhibits offered and the entire record of this proceeding, the Commission makes the following

FINDINGS OF FACT

1. Pitt & Greene is a duly organized electric membership corporation with principal office in Farmville, North Carolina, serving 4,500 member customers with 700 miles of distribution line of primary voltage of 12,000 kilowatts, and receiving its power from the Carolina Power & Light Company's substation at Snow Hill with a contract demand of 10,000 kilowatts and a present usage of 6,800 kilowatts, leaving 3,200 kilowatts of reserve contract capacity.

2. Edgecombe-Martin is a duly organized electric membership corporation with principal office in Tarboro, North Carolina, serving 5,300 member customers with 1,000 miles of distribution line of primary voltage of 12,000 kilowatts and receiving its power from Virginia Electric & Power Company at one of more substations, including the Wiggins Crossroad substation adjacent to the Davenport service area.

3. The agreement filed by Pitt & Greene and Edgecombe-Martin with the amended Petition to Intervene provides for division of the Davenport service area between the two membership corporations under the lease and purchase option by assigning the Davenport area north of North Carolina Highway 124 to Edgecombe-Martin, serving approximately 252

customers of Davenport, representing 37 1/2% of the Davenport electric system, and assigning the Davenport customers south of Highway 124 to Pitt & Greene, comprising approximately 425 customers and 62 1/2% of the Davenport electric system.

4. Pitt & Greene and Edgecombe-Martin have adopted a plan to set aside reserve funds on an annual basis for the 10-year period of the lease to have available sufficient reserve funds to exercise the option to purchase the Davenport system. Pitt & Greene proposes to accumulate $400,000 in such special reserve by appropriating $31,000 per year into such special reserve account to accumulate with interest to provide the entire purchase price in the event that Pitt & Greene should be the sole membership corporation desiring to exercise the option. Edgecombe-Martin proposes to set aside $3,000 per month in sinking funds to accumulate with interest to also have $400,000 of reserve funds available at the end of the 10-year period in the event that Edgecombe-Martin should be the only membership corporation desiring to exercise the option. In the event both membership corporations decide to exercise the option at the end of the 10-year period, the agreement of the membership corporations is to acquire the portion of the Davenport service area which will be operated under the lease as above described.

5. Edgecombe-Martin secures its power supply from Vepco at 7.3 mills wholesale rate and Southeastern Power Administration at 7.0 mills, and Pitt & Greene secures its power supply from Carolina Power & Light Company at 7.5 mills wholesale power rate. Each of the membership corporations has filed the rates charged to its member customers with the Utilities Commission. The rates of Edgecombe-Martin are approximately 25% lower than the rates of Davenport. The rates of Pitt & Greene are also approximately 25% below Davenport, but are different in some power blocks from those of Edgecombe-Martin and the final residential rate block is lower than that of Edgecombe-Martin. Both electric membership corporations stipulate that they would charge the same rates in the Davenport service area as they charge their member customers in their present service areas.

6. Pitt & Greene can furnish improved service in the southern 62 1/2% of the Davenport service area south of N.C. Highway 124 within a few weeks after approval of the lease and purchase option by the expenditure of $54,000 to extend power supply from their main transmission and distribution lines on the southern portion of the Davenport service area and to increase the capacity of the Davenport lines. Edgecombe-Martin can improve power supply to the northern 32 1/2% of the Davenport service area within a few days after approval of the lease and purchase option upon the expenditure of $28,000 for putting in new neutral conductors to increase the voltage capacity of the Davenport system and to extend service from Edgecombe-Martin's distribution and

transmission lines on the northern boundary of the Davenport service area. Davenport has spent $50,000 since the original Order of November 19, 1968, in installing heavier lines in some portions of its system, and this improvement, together with the proposed improvements of Edgecombe-Martin & Pitt & Greene, will provide greater capacity through all portions of the Davenport service area and should eliminate many of the troubles recited in the November 19, 1968 Order, including insufficient power, low voltage, and fluctuating voltages. The two membership corporations will install improved voltage regulation equipment to maintain voltages throughout the system within the tolerances and standards approved for operation of the Pitt & Greene and Edgecombe-Martin systems, and the expert consulting engineer's testimony is that the changes proposed will provide adequate service in the Davenport service area.

7. Both Edgecombe-Martin and Pitt & Greene utilize mobile radio systems for their maintenance and repair trucks which are dispatched from the Edgecombe-Martin office in Tarboro and the Pitt & Greene office in Farmville. Both membership corporations accept collect calls from member customers reporting service complaints and relay these complaints to maintenance trucks by radio for inspection and service. This maintenance system should alleviate the complaints recited in the Order of November 19, 1968, relating to poor maintenance service. Each of the membership corporations has a fleet of maintenance trucks equipped with all necessary tools and equipment to make field repairs and to install new services and improved capacity of service. Each of the membership corporations has available engineers or technicians who can consult with member customers regarding the power demands of the respective customers to insure adequate power at each customer's premises. Pitt & Greene has existing power capacity at the eastern boundary of the Davenport system to make immediate connections to some of the Davenport customers on the eastern extremity of the Davenport lines receiving inadequate and insufficient service at the present time and they would receive immediate relief. Edgecombe-Martin has sufficient reserve capacity from its present Vepco power supply at the Williams Crossroad to furnish 400 kilowatts of demand to the northern 32 1/2% of the Davenport customers. The peak demand of Davenport in 1968 of 700 kilowatts would be exceeded by the combined available power of Edgecombe-Martin of 400 kilowatts and Pitt & Greene of 600 kilowatts. Both of the membership corporations are assured of any additional demand capacity required from their wholesale suppliers as the said systems increase power consumption in the future years.

8. The expert engineer's testimony, based upon the history of the area, is that the power requirements in the Davenport system will double in the next seven to ten years. The Davenport system is in serious danger of failing in its power capacity during the summer peak demand of 1969 and, under the present arrangement of power source and

transmission, the system could incur a power failure or blackout from overloading, resulting in heavy damage to customers' electric motors and other electric appliances.

9. The territory served by Davenport is substantially similar to the service areas served by Pitt & Greene and Edgecombe-Martin in that it is a predominately rural area of farms and residences with occasional small stores as commercial customers. The Davenport service area has no regular common carrier rail service and no rivers or industrial water supply and would not be identified under existing standards as an area with potential for heavy industry.

10. The electric suppliers in the vicinity of the Davenport service area have reached agreement for assignment of electric service areas under the 1965 Electric Service Area Act, G.S. 62-110.2 et seq., and are in preparation of a joint application for assignment of the service areas to the respective electric suppliers. The membership corporations will support assignment of the Davenport service area to Davenport and lease of the assignment to the membership corporations as part of the general lease agreement with purchase option.

11. The two membership corporations offered as exhibits feasibility studies of the Davenport system demonstrating the estimated revenue of the Davenport system as being sufficient to support the lease price and purchase option price, based upon operation of the system by membership corporations with their expense ratios and cost of power, and the feasibility studies indicate the acquisition of the Davenport system by the membership corporations will not place a financial burden upon the existing member customers of Pitt & Greene and Edgecombe-Martin.

12. The two membership corporations stipulate that the Davenport service area while operated under the proposed lease agreement would be subject to the jurisdiction of the Utilities Commission and that separate records would be maintained as to the Davenport service area, with separate annual reports, and the membership corporations as lessees would be subject to the jurisdiction of the Utilities Commission as to rates and service within the Davenport service area.

CONCLUSIONS

1. This proceeding was instituted by the Commission to investigate the adequacy and sufficiency of Davenport electric service in its service area and, after the original hearing beginning October 4, 1968, the Commission entered its Order of November 19, 1968, finding the Davenport service to be inadequate and insufficient. The November 19, 1968, Order required Davenport to make improvements in service or to file reports of negotiations to lease or sell the Davenport system to electric suppliers having the

capability of improving the service in the Davenport service area so as to provide adequate and sufficient service to the Davenport customers.

2. The lease documents filed in this proceeding meet the provisions of the Commission Order that Davenport lease or sell its system to other electric suppliers who would improve electric service in the Davenport service area. The testimony of the intervenors Pitt & Greene and Edgecombe-Martin shows these proposed lessees have greater electric capacity than the present power supplies of Davenport and that the lessees have the financial resources and equipment and power supplies to improve the service in the Davenport service area. The low wholesale power costs of the Pitt & Greene and Edgecombe-Martin systems will enable these lessees to provide service at substantial reductions in the rates heretofore charged by Davenport.

3. The Order setting the proposed leases for hearing included a requirement that the leases comply with the requirements of G.S. 62-110 and G.S. 62-111 as being justified by the public convenience and necessity. The immediate availability of improved electric supply for the Davenport service area from the proposed lessees complies with this requirement of the statute. The furnishing of higher voltage current in the Davenport service area with improved voltage regulation to eliminate serious service complaints, and the availability of reduced rates support the lease as being justified by the public convenience and necessity. The imminent danger of serious power shortage in the Davenport service area in the summer of 1969 requires urgent action to obtain improvements in the adequacy and sufficiency of the power supply to this service area. The lease agreements filed with the amended Petition to Intervene provide assurance of full responsibility of the lessees for the operation of the Davenport system and for improvements in the adequacy and sufficiency of this service. The financial feasibility studies offer evidence that the acquisition of the Davenport system will not be a burden to the existing Pitt & Greene and Edgecombe-Martin member customers. The list of improvements attached as Appendix A to the November 19, 1968 Order have been reviewed by the membership corporations and they have offered full assurances of meeting all of the improvement requirements.

4. The respondent Davenport and the intervenors have both offered testimony from public witnesses supporting the proposed lease and purchase option and support for the service by Edgecombe-Martin and Pitt & Greene. Preliminary customer surveys by Edgecombe-Martin indicate that the customers of Davenport will accept the standard membership contract used by membership corporations within their electric service areas.

Based upon the above Findings of Fact and Conclusions, the Commission enters the following Order.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the lease and purchase option filed herein by the respondent Davenport and the intervenors Pitt & Greene and Edgecombe-Martin, as amended, satisfies the requirements of the Order of November 19, 1968, and the Order setting the lease for hearing dated March 26, 1969, and will satisfy the requirements in the investigation herein relating to adequacy of service to the customers residing in the franchise area of Davenport Power & Light Company, and is approved.

2. That said lease and purchase option between William Davenport, d/b/a Davenport Power & Light Company, and Pitt & Greene and Edgecombe-Martin made on March 14, 1969, filed with the Davenport report on March 17, 1969, as amended by the Amendment to the Petition for Intervention filed herein on April 21, 1969, complies with the requirement of G.S. 62-110 and G.S. 62-111 for acquisition of control of electric franchises, and it is approved under said provisions of the statute as to acquisition of control of the Davenport electric system by said electric membership corporations.

3. That during the period of the operation of the lease from Davenport to Pitt & Greene and Edgecombe-Martin, the Davenport service area will continue under regulation of the Utilities Commission, and the said electric membership corporations as lessees will be subject to the jurisdiction of the Utilities Commission for regulation of rates and services and for the filing of separate annual reports and maintenance of separate records.

4. That during the period of said lease, the lessees Pitt & Greene and Edgecombe-Martin shall charge the same rates within the Davenport service area as those applicable to all other members of said respective electric membership corporations.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of May, 1969.

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

DOCKET NO. E-25, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Rocky Mount Mills for Authorization for Sale of Electrical Distribution System in and near Rocky Mount, Nash County, North Carolina, to the City of Rocky Mount) ORDER

BY THE COMMISSION: On October 13, 1969, Rocky Mount Mills filed with the Commission a Petition seeking approval of the sale of the electric distribution system ("system") owned by Rocky Mount Mills, Rocky Mount, Nash County, North Carolina. The Applicant is engaged in distributing electrical power to the consuming public in a portion of the City of Rocky Mount, North Carolina, and territories adjacent thereto.

In said Petition the Applicant advised the Commission that the Board of Directors of Petitioner at its meeting in July, 1969, authorized management to make an offer to the City of Rocky Mount to sell its system and related assets, such authorization being contained in a written proposal, a copy of which was attached to Petition and marked Exhibit A. The proposal was accepted by the City of Rocky Mount on August 21, 1969, by action of the Rocky Mount City Council, and a copy of the adopting Resolution marked Exhibit B was attached to Petition. The acceptance of the proposal effected a contract between the parties by which the Company agreed to sell and the City of Rocky Mount agreed to buy the Company's electrical distribution system and related assets as enumerated subject to the terms and conditions all as set forth in the proposal.

A public notice, approved in form by the Commission, was published in the Evening Telegram, a local newspaper having general coverage in the area served by Rocky Mount Mills, for two consecutive weeks, on November 3, 1969, and again on November 10, 1969, and the Commission has been furnished an Affidavit of Publication to that effect. Said notice contained a provision that if no one intervened or filed protest by 5:00 P.M., November 15, 1969, the matter would be decided on the basis of facts contained in the verified application, and public records available to the Commission without holding a public hearing. No protests or interventions were filed by the time specified nor have any been filed to date.

Based on the application and pertinent records of the Commission, of which it takes judicial notice, the Commission makes the following

FINDINGS OF FACT

1. That Rocky Mount Mills is a corporation organized and existing under the laws of the State of North Carolina with its principal office and place of business in Rocky Mount, North Carolina. Rocky Mount Mills is principally engaged in the textile milling business and initially went into the electrical distribution business primarily as a service to its mill village residents and since that time has looked on the continuation and growth of its system as a service to the community, but always as a sideline to its principal textile business. The substantial growth of the area northwest of the City of Rocky Mount in which, under existing law, Rocky Mount Mills had priority rights to serve, has reached a point where Rocky Mount Mills is faced

with the problem of either rendering inadequate service, commit large additional capital resources to the development of a more elaborate distribution system than it now has, or petition Commission for permission to dispose of its distribution system to which latter objective the Petition was addressed. Petitioner, by reason of the limitation of its facilities, has already been obliged to waive its rights to serve customers in a number of instances.

2. That the purchase price to be paid by the City of Rocky Mount to Rocky Mount Mills for the system is $1,250,000 and the City of Rocky Mount will take over the system as soon as practicable after Commission approval of the sale.

3. That the system now owned and operated by Rocky Mount Mills has an average yearly demand of approximately 1,445 KW and serves approximately one thousand five hundred ninety four (1,594) customers including both those within and outside the City of Rocky Mount. Rocky Mount Mills shall retain the right to continue the operation of its hydro-electrical plant and to purchase electrical power from or sell electrical power to Carolina Power & Light Company, its successors, and other electrical power companies.

4. The City of Rocky Mount owns and operates its own electrical distribution system for the sale of power and electric energy to its residents and customers both inside and outside the City of Rocky Mount and said City in the operation of its own electrical distribution system for such purposes is in position to provide proper, sufficient and adequate electrical service to residents and customers presently served by Petitioner.

5. Petitioner presently purchases all of its wholesale power from the City of Rocky Mount and its system is so located that it can be immediately connected with the distribution system operated by the City of Rocky Mount. If the contract as entered into is approved there will be no interruption or cessation of service to the customers presently served by Petitioner, all of whom will be immediately integrated into the electrical distribution system of the City of Rocky Mount.

6. That Applicants' tariff and electrical rate charges are on file and approved by the Commission and are a matter of public record, and the tariff and electrical rate charges of the City of Rocky Mount are a matter of public record and can be observed at the City Hall in Rocky Mount, North Carolina. That tariffs and electric rates now charged by petitioner and the City of Rocky Mount are substantially the same though not identical and that while some rates charged by the City of Rocky Mount may be slightly higher and some slightly lower than those charged by Rocky Mount Mills there will be no substantial increase in tariffs or electrical rates charged to customers presently served by Rocky Mount Mills and who would upon approval of the Commission and

consummation of the transaction be served by the City of Rocky Mount.

7. That upon consummation of the sale and commencement of operation of said system by City of Rocky Mount, public convenience and necessity will no longer require and will no longer be served by the operation of said system by Rocky Mount Mills.

8. Upon consummation of this transaction, Rocky Mount Mills will no longer hold a franchise to operate an electric distribution system in the City of Rocky Mount and will not own facilities and does not propose to furnish electric service to the public.

Based on the foregoing findings, the Commission makes the following

CONCLUSIONS

Upon consideration of the facts, as hereinabove set out, and applicable law, the Commission is of the opinion and holds that public convenience and necessity would be served if Rocky Mount Mills is permitted to sell and transfer to the City of Rocky Mount its distribution facilities; that upon commencement by the City of Rocky Mount of service to the area and to customers being served by said facilities, Rocky Mount Mills should be permitted to abandon service to said areas and to said customers. The Commission is further of the opinion and holds that upon consummation of this transaction, Rocky Mount Mills will no longer be a public utility within the meaning of G.S. 62-3(23)(a)(1) so as to require its regulation by this Commission and the Certificate of Public Convenience and Necessity heretofore issued should be cancelled and terminated.

IT IS, THEREFORE, ORDERED

1. That the sale by Rocky Mount Mills of its electric distribution system in and near the City of Rocky Mount is hereby approved.

2. That upon commencement of service by the City of Rocky Mount, Rocky Mount Mills is hereby authorized to abandon the distribution facilities and discontinue rendering electric service to customers presently being served by the facilities transferred to the City of Rocky Mount.

3. The Certificate of Public Convenience and Necessity heretofore granted to Rocky Mount Mills to furnish electric service is cancelled upon receipt by the Commission from Rocky Mount Mills of a verified statement advising that the

City of Rocky Mount has taken over the operation of the Rocky Mount Mills Electrical Distribution System.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of November, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 74

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Piedmont Natural Gas Company, Inc. for Authority to Issue and Sell $6,000,000 of 7-3/4% Notes with Serial Maturities Beginning December 1, 1973 and Ending December 1, 1975; $3,013,000 of 5.916% Discounted Notes Maturing 4 Years From Date of Issue; and $700,000 of 7-3/4% Notes Maturing on December 1, 1976) ORDER

This cause comes before the Commission upon an Application of Piedmont Natural Gas Company, Inc., filed under date of April 21, 1969, through its counsel, McLendon, Brim, Brooks, Pierce & Daniels, Greensboro, North Carolina, wherein authority of the Commission is sought to issue and sell $6,000,000 of 7-3/4% notes with serial maturities as follows: $2,000,000 on December 1, 1973; $2,000,000 on December 1, 1974; and $2,000,000 on December 1, 1975; $3,013,000 of 5.916% discounted notes maturing 4 years from date of issue, and $700,000 of 7-3/4% notes maturing December 1, 1976.

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.

PETITIONER further represents that this Commission has previously granted the Petitioner a Certificate of Public Convenience and Necessity authorizing it to acquire certain gas franchises and properties in the State of North Carolina and that Petitioner now holds franchises and is furnishing natural gas to customers in 40 cities and towns located in 14 counties in North Carolina, as shown on the map attached to the Application as Exhibit A.

PETITIONER further represents that in order to meet the increasing demands for gas and to facilitate, improve, and extend its services, the Petitioner spent approximately $14,200,000 during the period June 1, 1967 (the date of latest permanent financing), through December 31, 1968, and proposes to spend, in carrying out its program of construction and extension of services, approximately $9,000,000 during the year 1969.

PETITIONER further represents that subject to the approval of this Commission, it now proposes to issue $6,000,000 of 7-3/4% notes with serial maturities as follows: $2,000,000 on December 1, 1973; $2,000,000 on December 1, 1974; and $2,000,000 on December 1, 1975; and to sell said notes to the Aetna Casualty & Surety Company, Hartford, Connecticut, a private investor, at a price of 100% of the principal amount thereof plus an amount equal to interest, if any, accrued on said notes to the date of sale.

PETITIONER further proposes to issue $3,013,000 of 5.916% notes maturing 4 years from date of issue and to sell said notes to Wachovia Bank and Trust Company, N. A., Winston-Salem, North Carolina, at a price of $2,300,000 (said discount providing an effective rate of interest of 7-3/4%) and to issue $700,000 of 7-3/4% notes maturing on December 1, 1976, and to sell said notes to Wachovia Bank and Trust Company, N. A., Trust Department, Winston-Salem, North Carolina, at a price of 100% of the principal amount thereof plus an amount equal to interest, if any, accrued on said notes to the date of sale.

PETITIONER further represents that the expenses estimated to be incurred in connection with the issuance and sale of said notes will be approximately $50,000.

PETITIONER further represents that the issue and sale of said notes and the execution of Note Purchase Agreements with private investors have been authorized by resolution of its Board of Directors.

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 Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proposed performance of 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 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 execute and deliver to Aetna Casualty & Surety Company, Wachovia Bank and Trust Company, N. A., and Wachovia Bank and Trust Company, N. A., Trust Department, Note Purchase Agreements in substantially the form attached to the Petition.

2. To issue and sell $6,000,000 of 7-3/4% notes with serial maturities as follows: $2,000,000 on December 1, 1973; $2,000,000 on December 1, 1974; and $2,000,000 on December 1, 1975.

3. To issue and sell $3,013,000 of 5.916% discounted notes maturing 4 years from date of issue.

4. To issue and sell $700,000 of 7-3/4% notes maturing December 1, 1976.

IT IS FURTHER ORDERED, That the proceeds to be derived from the sale of said notes shall be devoted to the purposes set forth in the Application.

IT IS FURTHER ORDERED, That the Petitioner shall file with this Commission, in the future, a notice of negotiations of short-term notes, date of maturity, rate of interest and principal amount.

IT IS FURTHER ORDERED, That the Petitioner supply the Commission with a copy of the Note Purchase Agreements 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 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 2nd day of May, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. G-5, SUB 68

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Public Service Company of North)
Carolina, Incorporated, for Authority to Issue) ORDER
and Sell 300,000 Additional Shares of Common)
Stock, Having Par Value of $1.00 Per Share)

On June 20, 1969, Public Service Company of North Carolina, Incorporated, filed an Application for authority to issue and sell 300,000 additional shares of its Common Stock, having a par value of $1.00 per share, to Underwriters, in accordance with the provisions of an Underwriting Agreement, under the terms of which the Underwriters agree to make a public offering of such shares of Common Stock after the Registration Statement filed by the applicant with the Securities and Exchange Commission becomes effective.

A draft of the proposed Underwriting Agreement to be entered into with the Underwriters was presented with the Application as Exhibit C.

As stated in the Application, the Company proposes that the price per share to be received by the Company for such additional shares will be agreed upon between the Company and the Underwriters, and will be in accordance with the terms of the Underwriting Agreement to be executed between the Company and the Underwriters, on or about July 15, 1969, which price per share shall be at least 90% of the bid price per share for the Company's Common Stock in the over-the-counter market on the day prior to the execution of the Underwriting Agreement; and that at the same time the price at which such additional shares of Common Stock will be offered to the public by the Underwriters will be agreed upon between the Company and the Underwriters.

From a review of the Application, together with the exhibits attached thereto, and upon the 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 North Carolina natural gas transmission lines, distribution systems, services and other facilities necessary and proper for furnishing and delivering natural gas to the public for compensation within the territories authorized by the Commission; that as a public service corporation the Company is subject to regulation by this Commission as to rates, service and security issues; that the Company's capital structure is such that it is appropriate and reasonable to issue additional shares of Common Stock; and that the issuance and sale of 300,000 additional shares of Common Stock, as proposed by the Company, 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 performance by the Company of its service to the public as a utility, and will not impair its ability to perform the service, and are reasonably necessary and appropriate for such purposes.

The Commission being of the opinion that said Application should be granted, and that the proposed transaction should be approved and authorized;

IT IS THEREFORE ORDERED:

1. That Public Service Company of North Carolina, Incorporated, be, and it hereby is authorized, empowered and permitted to issue and sell 300,000 additional shares of its Common Stock, having a par value of $1.00 per share, to Underwriters pursuant to the terms of an Underwriting Agreement substantially in the form attached to the Application in this proceeding as Exhibit C.

2. That the price per share to be received by the Company may be agreed upon between the Company and the Underwriters and shall be in accordance with the terms of the Underwriting Agreement to be executed between the Company and the Underwriters on or about July 15, 1969, which price per share shall be at least 90% of the bid price per share for the Company's Common Stock in the over-the-counter market on the day prior to the execution of the Underwriting Agreement; when the price at which such additional shares of Common Stock will be offered to the public by the Underwriters shall also be determined by agreement between the Company and the Underwriters.

3. That the net proceeds to be derived from the issuance and sale of said additional shares shall be used for the purposes set forth in the Application.

4. That the Company shall file with this Commission, in the future, a notice of negotiations of short-term bank notes, setting forth the date of issue, date of maturity, rate of interest and principal amount thereof.

5. That within thirty (30) days after the sale of said additional shares of Common Stock, the Company shall file two (2) copies of the Underwriting Agreement, in final form, and a report, in duplicate, of the sale of said additional shares of Common Stock, as Supplemental Exhibits in this proceeding.

6. This Order shall not be construed to deprive the Commission of any of its regulatory authority as provided by law.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. H-51

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of the Housing Authority of the City of Albemarle for a Certificate of Public Convenience and Necessity for the Establishment of 200 units of Low Rent Housing and For Authority to Exercise the Right of Eminent Domain in Fulfilling said Project; to Purchase or Otherwise Acquire Property for Use in Connection Therewith, and for Other Purposes Incident Thereto, All as Provided in Secs. 157-11 and 157-50, and Other Pertinent Sections of Chapter 157 of the General Statutes of North Carolina) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Bldg., Raleigh, North Carolina, on December 4, 1969, at 2 o'clock P.M.

BEFORE: Commissioners Clawson L. Williams, Jr. (Presiding), John W. McDevitt and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Henry C. Doby, Jr., Esq.
Patterson & Doby
Attorneys at Law
P. O. Box 1306, Albemarle, North Carolina

No Protestants

WILLIAMS, COMMISSIONER: On October 31, 1969, The Housing Authority of the City of Albemarle, North Carolina filed application for a Certificate of Public Convenience and Necessity for the establishment, development, construction, maintenance and operation of 200 units of low rent housing, and for authority to exercise the right of eminent domain in the acquisition of property, to be constructed in the City of Albemarle.

By Order of the Commission, dated November 6, 1969, the matter was set for public hearing before the Commission and it was ordered that notice be published in a newspaper of general circulation in the area once each week for two successive weeks. No protests or interventions were filed and no one appeared in opposition to granting the Certificate.

Applicant offered the testimony of Mr. Jack F. Neill, City Manager and Executive Director of the Housing Authority of the City of Albemarle, affidavit of publication in the Stanly News and Press, pursuant to the Order of November 6, 1969, and ten additional exhibits relating to the

establishment and organization of the authority, pertinent excerpts from the minutes of the meetings of the Board of Commissioners of the City of Albemarle, Notice of Public Hearing and Certificate of Incorporation of the Housing Authority of the City of Albemarle.

Based upon the evidence and exhibits, the Commission makes the following

FINDINGS OF FACT

1. The Housing Authority of the City of Albemarle is a duly created and existing body corporate under the Housing Authority Law, Chapter 157 of the General Statutes of North Carolina.

2. That on June 2, 1967, more than 25 residents of the City of Albemarle filed a petition with the City Clerk of the City of Albemarle setting forth that there exists a lack of safe and sanitary dwelling accommodations in the City, particularly for persons of low income and that there is a need for public housing facilities and the creation of a Housing Authority.

3. That after due notice as required by law, public hearing was held in the Council Room of the City Hall, Albemarle, North Carolina, on October 2, 1967, at 7:30 P.M., for the purpose of affording interested persons an opportunity to be heard as to whether or not unsanitary or unsafe dwelling accommodations exist in the City of Albemarle and as to whether or not a need existed for a Housing Authority to function in that City. Thereafter the City Board of Commissioners adopted a resolution declaring a need for and establishing a Housing Authority pursuant to the statutes and thereafter said Housing Authority was duly chartered and created.

4. All requirements necessary for a preliminary loan contract from the Housing Assistance Administration have been fulfilled by the Housing Authority of the City of Albemarle, and the Housing Authority has received from the Housing Assistance Administration a Preliminary Loan Contract covering 200 dwelling units of low-rent public housing and a preliminary loan of $80,000.00, which said contract is to be executed by the Authority and funds requisitioned as needed for the preliminary studies and planning of the 200 dwelling units covered thereunder.

5. That surveys made in the City of Albemarle show that a public need exists for the construction by the Housing Authority of the City of Albemarle of 200 safe, sanitary, low-rent dwelling units of the type proposed. The City of Albemarle has a present population of approximately 12,261 and there are in excess of 394 units of substandard housing located within the City.

6. That The Housing Authority of the City of Albemarle is ready, willing, able and otherwise fit to carry out the lawful purpose in connection with the establishment and maintenance of the proposed low-rent housing project.

7. That the Housing Authority of the City of Albemarle has complied with all necessary requirements to acquire the property and construct the dwelling units and is entitled to a Certificate of Public Convenience and Necessity from this Commission.

The Commission, therefore, reaches the following

CONCLUSIONS

The Board of Commissioners of the City of Albemarle and the Housing Authority of the City of Albemarle have met the requirements of law with respect to the construction, maintenance and operation of low-rent housing units. Surveys of housing facilities show an urgent need for low-rent housing units, and this need cannot be met by private capital.

IT IS, THEREFORE, ORDERED that the Housing Authority of the City of Albemarle be and it is hereby granted a Certificate of Public Convenience and Necessity for the establishment, construction, maintenance and operation of 200 units of low-rent housing and in that connection is authorized to exercise the right of eminent domain in the acquisition of property in the City of Albemarle, North Carolina, and this Order shall constitute such Certificate of Public Convenience and Necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of December, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. B-46

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of the Edenton Housing Authority)
for a Certificate of Public Convenience and) RECOMMENDED
Necessity for the construction, maintenance) ORDER
and establishment of 309 low-rent housing)
units)

HEARD IN: The Offices of the Commission, Ruffin Building, Raleigh, North Carolina, on April 22, 1969, at 2:00 P.M.

BEFORE: Marvin R. Wooten, Hearing Commissioner

APPEARANCES:

For the Applicant:

Merrill Evans, Jr.
Attorney at Law
P. O. Box 74, Edenton, North Carolina 27932

No Protestants

WOOTEN, COMMISSIONER: On February 28, 1969, the Edenton Housing Authority, Edenton, North Carolina, filed an application for a Certificate of Public Convenience and Necessity for the establishment, development, maintenance and operation of 309 units of low-rent housing, and for authority to exercise the right of eminent domain in the acquisition of property, to be used in the construction of said low-rent housing units in the Town of Edenton, North Carolina.

By order dated March 5, 1969, the matter was set for public hearing before the Commission limiting the number of housing units to 100, and at the request of the applicant said order was amended on March 21, 1969, setting the matter for public hearing before the Commission and establishing the number of low-rent housing units involved to be 309, and it was ordered that public notice be published in a newspaper of general circulation in the area once each week for two successive weeks. No protests or interventions were filed and no one appeared in opposition to granting of the certificate.

Applicant offered the testimony of Mr. L. F. Amburn, Jr., Executive Director of the Edenton Housing Authority, affidavit of publication in The Chowan Herald, pursuant to the order of March 21, 1969, and several additional exhibits relating to the establishment and organization of the authority, pertinent excerpts from the minutes of the meetings of the Edenton City Council, Notice of Public Hearing before the City Council, and Certificate of Incorporation of Edenton Housing Authority; testimony was also offered by the applicant of Mr. W. B. Gardner, Clerk of the Town of Edenton, Edenton, North Carolina.

Based upon the evidence and exhibits, the Commission makes the following

FINDINGS OF FACT

1. Edenton Housing Authority is a duly created and existing body corporate under the Housing Authority Law, Chapter 157 of the General Statutes of North Carolina.

2. That on the 17th day of July, 1967, twenty-five (25) residents of the Town of Edenton filed a petition with the

Clerk of the Town of Edenton setting forth that there is a lack of safe and sanitary dwelling accommodations in said town available for all the inhabitants thereof, and particularly for persons of low income, and that there is a need for public housing facilities and the creation of a Housing Authority to function therein.

3. That on the 10th day of August, 1967, at 8:15 o'clock P. M., in the Town Hall in the Town of Edenton, North Carolina, after due notice as required by law, the Town Council of the Town of Edenton held a public hearing for the purpose of affording interested persons an opportunity to be heard as to whether or not unsafe and unsanitary inhabited dwelling accommodations existed in the Town of Edenton and as to whether or not a need existed for a Housing Authority to function in Edenton as provided by law. Thereafter the Town Council adopted a resolution declaring a need for and establishing a Housing Authority pursuant to the statutes and thereafter said Housing Authority was duly chartered and created.

4. That on the 6th day of November, 1967, the Edenton Housing Authority, made application to the Housing Assistance Administration for a preliminary loan for surveys and planning in connection with low-rent housing projects and for permission to construct 309 low-rent housing units and for a preliminary loan of $40,000.00 for the purpose of making surveys and other incidentals preliminary to the establishment of said units; and that the Housing Assistance Administration approved an initial Project N. C. 68-1 consisting of 100 dwelling units; and that the Town of Edenton and the Edenton Housing Authority have entered into a cooperative agreement for the construction, maintenance and operation of low-rent housing units by an agreement dated 12 December 1967.

5. That surveys made in the Town of Edenton show that a public need exists for the construction by the Edenton Housing Authority of 309 safe, sanitary, low-rent dwelling units of the type proposed. The Town of Edenton has a present population in excess of 4,428 persons and that 40 per cent of the housing in said town is substandard.

6. That Edenton Housing Authority is ready, willing, able and otherwise fit to carry out the lawful purposes in connection with the establishment and maintenance of the proposed low-rent housing project.

7. That Edenton Housing Authority has complied with all necessary requirements to acquire the property and construct the dwelling units and is entitled to a Certificate of Public Convenience and Necessity from this Commission.

The Commission, therefore, reaches the following

CONCLUSIONS

The Town Council and Housing Authority of the Town of Edenton, North Carolina, have met the requirements of law with respect to the construction, maintenance and operation of low-rent housing units. Surveys of housing facilities show an urgent need for additional low-rent housing units, and this need cannot be met by private capital.

IT IS, THEREFORE, ORDERED that the Edenton Housing Authority be, and it is, hereby granted a Certificate of Public Convenience and Necessity for the establishment, construction, maintenance and operation of 309 units of low-rent housing, and in that connection is authorized to execute the right of eminent domain in the acquisition of property in the Town of Edenton, North Carolina, and this order shall constitute such Certificate of Public Convenience and Necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of April, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. H-22, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of the Housing Authority of the City of Hendersonville, North Carolina for Amendment of Certificate of Public Convenience and Necessity for Construction of One Hundred (100) Low-rent Housing Units) RECOMMENDED ORDER

HEARD IN: Library of the Commission, Raleigh, North Carolina, on Wednesday, January 29, 1969

BEFORE: Clawson L. Williams, Jr., Hearing Commissioner

APPEARANCES:

For the Applicant

H. Harley Stepp, Jr.
Attorney at Law
Garren & Stepp
414 N. Church Street
Hendersonville, N. C.

WILLIAMS, HEARING COMMISSIONER: On November 19, 1968, the Hendersonville Housing Authority filed application to amend its Certificate of Public Convenience and Necessity to

permit the establishment, development, construction, maintenance and operation of 100 additional units of low-rent housing and for authority to exercise the right of eminent domain for the acquisition of property upon which said units are to be constructed.

By Order of the Commission, dated December 4, 1968, the matter was set for public hearing before the Commission and notice was duly given by publication in The Times-News, a newspaper having general circulation in the Hendersonville area and hearing was held as captioned.

No protests were filed with the Commission prior to the hearing, nor did anyone appear at said hearing in opposition to the application.

Based upon the evidence adduced at the hearing and the exhibits offered, the Commission makes the following

FINDINGS OF FACT

1. That the Housing Authority of Hendersonville is a duly created and existing body corporate under the Housing Authority Law Chapter 157 of the General Statutes of North Carolina.

2. That the Housing Authority of Hendersonville holds a Certificate of Public Convenience and Necessity issued by Order of this Commission under date of January 8, 1963 in Docket No. H-22, which Order granted the right and power of eminent domain in connection with the acquisition of property necessary to construct 150 units of low-rent public housing.

3. That all of the existing 150 units are presently occupied and there are now in excess of 35 applications from low-income families for occupancy of said units.

4. That a survey, conducted by the Hendersonville Housing Authority in conjunction with representatives of the Department of Housing and Urban Development in February, 1967, showed that there were between 500 and 600 substandard houses in Hendersonville and that there is an urgent need for additional low-rent housing units, which need cannot be fulfilled by private capital or private enterprise.

5. That on April 10, 1968, the Housing Authority of Hendersonville adopted a resolution authorizing the Executive Director to make application to the Department of Housing and Urban Development for financial assistance in the construction of 100 additional dwelling units for low-rent public housing and approved the application for a preliminary loan of $35,000.00 for surveys and planning in connection with the construction of such units.

6. That on November 14, 1968, the Housing Authority and the City of Hendersonville executed a Cooperation Agreement

relating to the furnishing of public services by the City and payment by the Housing Authority to the City of a sum in lieu of taxes for such services, which Cooperation Agreement has been approved by the Department of Housing and Urban Development.

7. That the City of Hendersonville has approved the action of the Hendersonville Housing Authority with reference to the construction of 100 additional units of low-rent housing.

8. That the Public Housing Administration has approved a preliminary loan of $35,000.00 for the survey and planning necessary in connection with the construction of the additional 100 units.

9. That the Housing Authority of the City of Hendersonville has complied with all necessary requirements to acquire property and construct 100 additional low-rent dwelling units and is entitled to have its Certificate of Public Convenience and Necessity amended to that end.

The Commission, therefore, reaches the following

CONCLUSIONS

The City of Hendersonville and the Housing Authority of the City of Hendersonville have met the requirements of law with respect to the construction, maintenance and operation of low-rent housing units and urgent need has been demonstrated for additional low-rent housing units and this need cannot be met by private capital.

IT IS, THEREFORE, ORDERED

That the Housing Authority of the City of Hendersonville is hereby granted an amendment to its Certificate of Public Convenience and Necessity to establish, construct, maintain and operate 100 additional units of low-rent housing, and in that connection is authorized to exercise the power of eminent domain in the acquisition of property in the City of Hendersonville, North Carolina, and this Order shall constitute such Amendment to such Certificate.

ISSUED BY ORDER OF THE COMMISSION.

This 4th day of February, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. H-22, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of the Housing Authority of the City of Hendersonville, North Carolina for Amendment of Certificate of Public Convenience and Necessity for Construction of One Hundred (100) Low-rent Housing Units	RECOMMENDED ORDER OF FEBRUARY 4, 1969

BY THE COMMISSION: Upon consideration of the record herein and the written request of the attorney for the applicant Housing Authority of the City of Hendersonville filed with the Commission on May 21, 1969 to amend the application to authorize 50 units of housing within the City of Hendersonville and 50 units within the County of Henderson as requested in the application and as shown in the Notice to the Public published in this proceeding, and it appearing that the Recommended Order herein of February 4, 1969, granting the Certificate was intended to grant the Certificate as requested in the Petition, and that the authorization of 100 additional units provided in said Order was not limited to 100 units to the City of Hendersonville solely, and good cause appearing to amend said Order to conform with the application,

IT IS, THEREFORE, ORDERED that the Recommended Order entered herein on February 4, 1969, is hereby amended by rewriting the ordering paragraph beginning at the bottom of page 3 and extending to the top of page 4 of said Order to read as follows:

"IT IS, THEREFORE, ORDERED

That the Housing Authority of the City of Hendersonville is hereby granted an amendment to its Certificate of Public Convenience and Necessity for the establishment of an additional 100 low-rent units, 50 within the City of Hendersonville and 50 within the County of Henderson, and in that connection is authorized to exercise the power of eminent domain in the acquisition of property for the construction and establishment of said 100 additional low-rent housing units, 50 within the City of Hendersonville and 50 within the County of Henderson, and this Order shall constitute such amendment to such Certificate."

ISSUED BY ORDER OF THE COMMISSION.

This 9th day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. H-50

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Application of Lincolnton Housing Authority for a Certificate of Public Convenience and Necessity for the construction, maintenance and establishment of 350 low-rent housing units	) ORDER

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on July 15, 1969, at 2:00 P.M.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten, Presiding

APPEARANCES:

For the Applicant:

Charles D. Randall
Clark and Randall
Attorneys at Law
West Main Street
Lincolnton, North Carolina

No Protestants

WOOTEN, COMMISSIONER: On June 3, 1969, the Lincolnton Housing Authority, Lincolnton, North Carolina, filed an application for a Certificate of Public Convenience and Necessity for the establishment, development, maintenance and operation of 350 units of low-rent housing, and for authority to exercise the right of eminent domain in the acquisition of property, to be used in the construction of said low-rent housing units in the Town of Lincolnton, North Carolina.

By order dated June 6, 1969, the matter was set for public hearing before the Commission, and it was ordered that public notice be published in a newspaper of general circulation in the area once each week for two successive weeks. No protests or interventions were filed and no one appeared in opposition to the granting of the certificate.

Applicant offered testimony of James D. Peeler, Lincolnton, North Carolina, Executive Director and Secretary of the Lincolnton Housing Authority; Yates Webb Lineberry, Building Inspector for the Town of Lincolnton, North Carolina; the affidavit of publication in the local newspaper; and several additional exhibits relating to the establishment and organization of the authority; pertinent excerpts from the minutes of the meeting of the Lincolnton City Council; Notice of Public Hearing before the City Council; and Certificate of Incorporation of the Lincolnton Housing Authority.

Based upon the evidence and exhibits, the Commission makes the following

FINDINGS OF FACT

1. Lincolnton Housing Authority is a duly created and existing body corporate under the Housing Authority Law, Chapter 157 of the General Statutes of North Carolina.

2. That on the 21st day of August, 1967, twenty-five (25) residents of the Town of Lincolnton filed a petition with the Clerk of the Town of Lincolnton setting forth that there is a lack of safe and sanitary dwelling accommodations in said town available for all the inhabitants thereof, and particularly for persons of low income, and that there is a need for public housing facilities and the creation of a Housing Authority to function therein.

3. That on the 18th day of December, 1967, at 7:30 o'clock P.M., in the Town Hall of Lincolnton, North Carolina, after due notice as required by law, the Town Council of the Town of Lincolnton held a public hearing for the purpose of affording interested persons an opportunity to be heard as to whether or not unsafe or unsanitary inhabited dwelling accommodations existed in the Town of Lincolnton and as to whether or not a need existed for a Housing Authority to function in Lincolnton as provided by law. Thereafter, the Town Council adopted a resolution declaring a need for and establishing a Housing Authority pursuant to the statutes and thereafter said Housing Authority was duly chartered and created.

4. That on the 14th day of June, 1968, the Lincolnton Housing Authority, made application to the Housing Assistance Administration for a preliminary loan for surveys and planning in connection with low-rent housing projects and for permission to construct 350 low-rent housing units and for a preliminary loan in the amount of $140,000.00 for the purpose of making surveys and other incidentals preliminary to the establishment of said units; and that the Housing Assistance Administration approved an initial Project N. C. 70-A, consisting of 150 dwelling units and a preliminary loan of $60,000.00; and that the Town of Lincolnton and the Lincolnton Housing Authority have entered into a cooperative agreement for the construction, maintenance and operation of low-rent housing units by an agreement dated October 10, 1968.

5. That surveys made by the Town of Lincolnton show that a public need exists for the construction by the Lincolnton Housing Authority of 350 safe, sanitary, low-rent dwelling units of the type proposed. The Town of Lincolnton has a present population of approximately 6000 people and that twenty-five percent (25%) of the housing in said town is substandard.

6. That Lincolnton Housing Authority is ready, willing, able and otherwise fit to carry out the lawful purposes in connection with the establishment and maintenance of the proposed low-rent housing project.

7. That Lincolnton Housing Authority has complied with all necessary requirements to acquire the property and construct the dwelling units and is entitled to a Certificate of Public Convenience and Necessity from this Commission.

The Commission, therefore, reaches the following

CONCLUSIONS

The Town Council and Housing Authority of the Town of Lincolnton, North Carolina, have met the requirements of law with respect to the construction, maintenance and operation of low-rent housing units. Surveys of housing facilities show an urgent need for additional low-rent housing units, and this need cannot be met by private capital.

IT IS, THEREFORE, ORDERED that the Lincolnton Housing Authority be, and it is, hereby granted a Certificate of Public Convenience and Necessity for the establishment, construction, maintenance and operation of 350 units of low-rent housing, and in that connection is authorized to execute the right of eminent domain in the acquisition of property in the Town of Lincolnton, North Carolina, and this order shall constitute such Certificate of Public Convenience and Necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. H-49

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of the North Wilkesboro Housing Authority, North Wilkesboro, North Carolina, for a Certificate of Public Convenience and Necessity for the Establishment, Development, Construction, Maintenance and Operation of 100 Units of Low-rent Housing, and for Authority to Exercise the Right of Eminent Domain in the Acquisition of Such Property in Connection Therewith) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on June 26, 1969 at 11 a.m.

BEFORE: Chairman Harry T. Westcott, and Commissioners Clawson L. Williams, Jr. (Presiding) and Marvin R. Wooten

APPEARANCES:

For the Applicant

E. James Moore, Esq.
Attorney at Law
924 B Street
North Wilkesboro, North Carolina

No Protestants

WILLIAMS, COMMISSIONER: On May 14, 1969, the North Wilkesboro Housing Authority, North Wilkesboro, North Carolina, filed application for a Certificate of Public Convenience and Necessity for the establishment, development, construction, maintenance, and operation of 100 units of low-rent housing and for authority to exercise the right of eminent domain in the acquisition of property to be constructed in the Town of North Wilkesboro.

By Order of the Commission, dated May 26, 1969, the matter was set for public hearing before the Commission as shown in the caption, and it was ordered that public notice be published in a newspaper of general circulation in the area once each week for two successive weeks. No protests or interventions were filed and no one appeared in opposition to granting the Certificate.

When hearing in this matter was opened Attorney for the Applicant asked that the application in this matter be amended so as to provide for the construction, maintenance and operation of 105 units of low-rent housing rather than 100 as stated in the application due to the fact that oral approval for an additional 5 units had been received from the Public Housing Administration. Said request for amendment of the application was allowed.

Applicant offered the testimony of Mr. J. M. Bentley, Jr., Town Clerk and Supervisor of the Town of North Wilkesboro, North Carolina, Mr. Gaither Blackwelder, Executive Director, North Wilkesboro Housing Authority, Mr. W. F. Absher, Jr., Member of the Town Council of the Town of North Wilkesboro, and Mr. John Walker, Chairman of the North Wilkesboro Housing Authority, affidavit of publication in The Journal-Patriot, pursuant to the Order of May 26, 1969, and 15 additional exhibits relating to the establishment and organization of the Authority, pertinent excerpts from the minutes of the meetings of the Town Council of the Town of

North Wilkesboro, Notice of Public Hearing and Certificate of Incorporation of the North Wilkesboro Housing Authority.

Based upon the evidence and exhibits, the Commission makes the following

FINDINGS OF FACT

1. The North Wilkesboro Housing Authority is a duly created and existing body corporate under the Housing Authority Law, Chapter 157 of the General Statutes of North Carolina.

2. That on August 9, 1967, more than 25 residents of the Town of North Wilkesboro filed a petition with the Town Clerk of North Wilkesboro setting forth that there exists a lack of safe and sanitary dwelling accommodations in the Town, particularly for persons of low income and that there is a need for public housing facilities and the creation of a Housing Authority.

3. That after due notice as required by law, public hearing was held in the Commissioners' Room in the Town Hall of the Town of North Wilkesboro, North Carolina on August 22, 1967, for the purpose of affording interested persons an opportunity to be heard as to whether or not unsanitary or unsafe dwelling accommodations exist in the Town of North Wilkesboro and as to whether or not a need existed for a Housing Authority to function in the Town. Thereafter the Board of Commissioners of the Town of North Wilkesboro adopted a resolution declaring a need for and establishing a Housing Authority pursuant to the statutes and thereafter said Housing Authority was duly chartered and created.

4. That on November 7, 1967, the Housing Authority of the Town of North Wilkesboro adopted a resolution authorizing the Secretary pro-tem to make application to the Department of Housing and Urban Development for financial assistance in the construction of 100 dwelling units of low-rent housing and approved the application for a preliminary loan of $45,000 for surveys and planning in connection with the construction of such units.

5. That on November 16, 1967, the North Wilkesboro Housing Authority and the Town of North Wilkesboro executed a Cooperation Agreement relating to the furnishing of public services by the City and payment by the Housing Authority to the City of a sum in lieu of taxes for such services, which Cooperation Agreement has been approved by the Department of Housing and Urban Development.

6. That the Public Housing Administration has approved a preliminary loan of $45,000.00 for the survey and planning necessary in connection with the construction of the 100 units of low-rent housing and has orally approved the construction of an additional 5 units of low-rent housing.

7. That surveys made in the Town of North Wilkesboro show that a public need exists for the construction by the North Wilkesboro Housing Authority of 105 units of safe, sanitary, low-rent dwelling units of the type proposed. That the Town of North Wilkesboro according to the 1960 census had a population of 4,197, and that of the 620 renter-occupied units within the corporate limits of the Town of North Wilkesboro, 85 are in a dilapidated condition, 167 are in a deteriorating condition, and that of the 377 classified as in sound condition, 54 of these lack some or all facilities.

8. That the North Wilkesboro Housing Authority is ready, willing, able and otherwise fit to carry out the lawful purposes in connection with the establishment and maintenance of the proposed low-rent housing project.

9. That the North Wilkesboro Housing Authority has complied with all necessary requirements to acquire the property and construct the dwelling units and is entitled to a Certificate of Public Convenience and Necessity from this Commission.

The Commission, therefore, reaches the following

CONCLUSIONS

The Board of Commissioners of the Town of North Wilkesboro and the Housing Authority of the Town of North Wilkesboro have met the requirements of law with respect to the construction, maintenance and operation of low-rent housing units. Surveys of housing facilities show an urgent need for low-rent housing units, and this need cannot be met by private capital.

IT IS, THEREFORE, ORDERED

That the application of the North Wilkesboro Housing Authority, as amended, be approved and it is hereby granted a Certificate of Public Convenience and Necessity for the establishment, construction, maintenance and operation of 105 units of low-rent housing and in that connection is authorized to exercise the right of eminent domain in the acquisition of property in the Town of North Wilkesboro, and this Order shall constitute such Certificate of Public Convenience and Necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. H-48

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of the Oxford Housing Authority)
For a Certificate of Public Convenience and)
Necessity for the Establishment of 200 Units)
of Low Rent Housing and for Authority to)
Exercise the Right of Eminent Domain in Ful-)
filling said Project; to Purchase or Otherwise)
Acquire Property For Use in Connection There-) RECOMMENDED
with, and For Other Purposes Incident Thereto,) ORDER
All as Provided in Secs. 157-11 and 157-50,)
and Other Pertinent Sections of Chapter 157 of)
the General Statutes of North Carolina)

HEARD IN: The Hearing Room of the Commission, Ruffin Bldg., Raleigh, North Carolina, on May 30, 1969 at 11 A.M.

BEFORE: Clawson L. Williams, Jr., Hearing Commissioner

APPEARANCES:

For the Applicant:

Hugh M. Currin, Esq.
Attorney at Law
P. O. Box 1245, Oxford, N. C. 27565

S. S. Royster, Esq.
Royster & Royster
P. O. Box 632, Oxford, N. C. 27565

No Protestants

WILLIAMS, COMMISSIONER: On April 24, 1969, the Oxford Housing Authority, Oxford, North Carolina filed application for a Certificate of Public Convenience and Necessity for the establishment, development, construction, maintenance and operation of 200 units of low rent housing, and for authority to exercise the right of eminent domain in the acquisition of property, to be constructed in the City of Oxford.

By Order of the Commission, dated May 8, 1969, the matter was set for public hearing before the Commission and it was ordered that public notice be published in a newspaper of general circulation in the area once each week for two successive weeks. No protests or interventions were filed and no one appeared in opposition to granting the Certificate.

Applicant offered the testimony of Mr. John K. Nelms, Temporary Secretary of the Oxford Housing Authority, affidavit of publication in the <u>Oxford Public Ledger</u>,

pursuant to the Order of May 8, 1969, and six additional exhibits relating to the establishment and organization of the authority, pertinent excerpts from the minutes of the meetings of the City Board of Commissioners of the City of Oxford, Notice of Public Hearing and Certificate of Incorporation of the Oxford Housing Authority.

Based upon the evidence and exhibits, the Commission makes the following

FINDINGS OF FACT

1. The Oxford Housing Authority is a duly created and existing body corporate under the Housing Authority Law, Chapter 157 of the General Statutes of North Carolina.

2. That on July 10, 1967, more than 25 residents of the City of Oxford filed a petition with the Acting City Clerk of the City of Oxford setting forth that there exists a lack of safe and sanitary dwelling accommodations in the City, particularly for persons of low income and that there is a need for public housing facilities and the creation of a Housing Authority.

3. That after due notice as required by law, public hearing was held in the Superior Courtroom in the Granville County Courthouse, Oxford, North Carolina, on July 25, 1967, for the purpose of affording interested persons an opportunity to be heard as to whether or not unsanitary or unsafe dwelling accommodations exist in the City of Oxford and as to whether or not a need existed for a Housing Authority to function in that City. Thereafter the City Board of Commissioners adopted a resolution declaring a need for and establishing a Housing Authority pursuant to the statutes and thereafter said Housing Authority was duly chartered and created.

4. All requirements necessary for a preliminary loan contract from the Housing Assistance Administration have been fulfilled by the Housing Authority of the City of Oxford, and the Housing Authority has received from the Housing Assistance Administration a Preliminary Loan Contract under initial project N.C. 73-A covering 200 dwelling units of low-rent public housing and a preliminary loan of $60,000.00, which said contract is to be executed by the Authority and funds requisitioned as needed for the preliminary studies and planning of the 200 dwelling units covered thereunder.

5. That surveys made in the City of Oxford show that a public need exists for the construction by the Oxford Housing Authority of 200 safe, sanitary, low-rent dwelling units of the type proposed. The City of Oxford has a present population of approximately 7,500 and there are in excess of 440 units of substandard housing located within the City.

6. That Oxford Housing Authority is ready, willing, able and otherwise fit to carry out the lawful purposes in connection with the establishment and maintenance of the proposed low-rent housing project.

7. That Oxford Housing Authority has complied with all necessary requirements to acquire the property and construct the dwelling units and is entitled to a Certificate of Public Convenience and Necessity from this Commission.

The Commission, therefore, reaches the following

CONCLUSIONS

The Board of Commissioners of the City of Oxford and the Housing Authority of the City of Oxford have met the requirements of law with respect to the construction, maintenance and operation of low rent housing units. Surveys of housing facilities show an urgent need for low-rent housing units, and this need cannot be met, by private capital.

IT IS, THEREFORE, ORDERED that the Oxford Housing Authority be and it is hereby granted a Certificate of Public Convenience and Necessity for the establishment, construction, maintenance and operation of 200 units of low-rent housing and in that connection is authorized to exercise the right of eminent domain in the acquisition of property in the City of Oxford, North Carolina, and this Order shall constitute such Certificate of Public Convenience and Necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. H-41, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of

Application of the Housing Authority of the City of Raleigh to Amend and Extend its Certificate of Public Convenience and Necessity for the establishment of 500 Additional Dwelling Units of low-rent public housing	) ORDER) AMENDING AND) EXTENDING) CERTIFICATE

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, April 23, 1969

BEFORE: Commissioners M. Alexander Biggs, Jr., Marvin R. Wooten, and John W. McDevitt, Presiding

APPEARANCES:

For the Applicant:

Thomas W. Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina

McDEVITT, COMMISSIONER: The Housing Authority of the City of Raleigh (Authority) filed an application on February 12, 1969, to amend and extend its Certificate of Public Convenience and Necessity for the establishment of 500 additional dwelling units of low-rent public housing. By order of the Commission, public hearing was scheduled and held as captioned.

The Authority offered the testimony of W. E. Ragan, Jr., Assistant Executive Director, and Robert Broughton, Chairman, and documentary exhibits tending to show that the Authority had complied with all statutory requirements prerequisite to the filing of its application. No written protests were filed and no one appeared at the hearing in opposition to the application.

Based upon the application, exhibits, relevant records and testimony adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1. The Housing Authority of the City of Raleigh is a duly organized and existing municipal corporation pursuant to Chapter 157 of the General Statutes of North Carolina and is engaged in establishing, managing and operating low-rent public housing projects in the City of Raleigh under a Certificate of Public Convenience and Necessity granted by the Utilities Commission by order dated January 24, 1939, and subsequently amended and extended to include additional projects by Commission orders dated March 31, 1950, and March 4, 1968.

2. The Authority, on August 8, 1968, adopted a resolution authorizing the filing of an application for reservation covering 500 dwelling units for elderly and non-elderly families and a preliminary loan of $200,000 for surveys and planning. The City Council of the City of Raleigh, on August 19, 1968, approved the application of the Authority for reservation and preliminary loan. The program reservation was approved by the Housing Assistance Administration on November 5, 1968.

3. The Authority on September 17, 1968, and the City Council of the City of Raleigh, on September 25, 1968, adopted resolutions amending the Cooperation Agreement, dated November 15, 1949, to increase the units covered by the Agreement by adding 500 units. The Cooperation

Agreement was amended accordingly on September 26, 1968, and duly filed with the Housing Assistance Administration.

4. The Authority has received from the Housing Assistance Administration a Preliminary Loan Contract covering 500 dwelling units of low-rent public housing, and a preliminary loan of up to $200,000 which upon execution will provide funds as required for the preliminary studies and planning of the 500 dwelling units covered thereunder.

5. The present low-rent facilities of the Authority are occupied to capacity and there is public need for the proposed additional low-rent housing for low income families which is evidenced by a substantial waiting list of verified eligible applications.

6. The Authority is well established, has successfully developed and is operating similar projects, and is ready, willing and able to carry out and fulfill its lawful purposes.

CONCLUSIONS

Based upon the application, exhibits, relevant records and testimony of the Officers of the Authority, all of which are of record and uncontradicted, the Commission concludes that the Housing Authority of the City of Raleigh has met the requirements of Article 3, Section 51 of Chapter 157 of the General Statutes of North Carolina, and should be granted an amendment and extension of its Certificate of Public Convenience and Necessity for the purposes set forth in the application.

IT IS THEREFORE ORDERED That the Housing Authority of the City of Raleigh, North Carolina, be, and it is hereby, granted an amendment to its Certificate of Public Convenience and Necessity for the establishment of 500 additional dwelling units of low-rent public housing as specified in its application filed with the North Carolina Utilities Commission on February 12, 1969, and that this order shall constitute an amendment and extension to the Certificate of Public Convenience and Necessity now held by the Housing Authority of the City of Raleigh.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. A-22

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
The Petition of the City of Rocky Mount, 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 Water Supply Reservoir Facilities	ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

HEARD IN: The Commission's Hearing Room, 1 West Morgan Street, Raleigh, North Carolina, on July 30, 1969, at 9:30 A.M.

BEFORE: Chairman H. T. Westcott, PRESIDING, and Commissioners Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Petitioner:

Charles T. Lane
Spruill, Trotter & Lane
Attorneys at Law
Peoples Bank Building
P. O. Box 353, Rocky Mount, North Carolina

No Protestants

WOOTEN, COMMISSIONER: This matter arises upon a Petition filed by the City of Rocky Mount (Petitioner) on June 23, 1969, seeking a Certificate of Public Convenience and Necessity for the construction of certain water supply reservoir facilities. The Commission scheduled this matter for hearing and required the Petitioner to give public notice of the time, place and purposes of such hearing by publication of such notice in a newspaper having general circulation in Rocky Mount and Nash County, North Carolina. Petitioner caused such notice to be published in the _Evening Telegram_, a newspaper published in the City of Rocky Mount and having general circulation in Rocky Mount and throughout Nash County, and furnished affidavit of publication of such notice showing the notice was published in the _Evening Telegram_ on July 18 and 25, 1969. Petitioner also filed an affidavit certifying that Charles T. Lane, City Attorney for the City of Rocky Mount, did mail a copy of the notice of hearing as published, to each of the property owners owning land in the vicinity and location of the proposed reservoir project as set forth in the schedule attached to the Petition in this case; said notice being mailed by first class mail postage prepaid.

Hearing was held on July 30, 1969, as scheduled. Petitioner was present with witnesses and represented by counsel. No formal protest was filed prior to the date of the hearing and no one appeared in the capacity of protestant at the hearing. Evidence presented by the Petitioner included the testimony of Engineer, Nat D. Pierson; Russell Buxton, Director of Public Works for the City of Rocky Mount, and Wilbur H. Rose, Director, Nash County Industrial Development Commission, and numerous supporting affidavits and other exhibits. Charles Hoover Lamm, Jr., appeared and requested the opportunity to make a statement. He was sworn and testified; the sum total of his testimony being that he owned land adjacent to the location of the proposed water supply reservoir facilities; that it was his opinion that the City of Rocky Mount was planning and intended to take, under eminent domain, a greater portion of his property than would be reasonably necessary to construct and operate the proposed water supply reservoir facilities; that there was a public need for the facilities proposed and that he supported the application insofar as authority to construct such facilities was concerned, but objected only to proposed efforts of the City to take more of his property than was reasonably necessary for the construction of such water supply reservoir facilities.

The evidence offered substantiates and justifies the following

FINDINGS OF FACT

1. That the City of Rocky Mount is a municipal corporation and a "State public body" under the statutory definition in Section 40-32, Article 3 of Chapter 40 of the General Statutes of North Carolina, created under the constitution and laws of the State of North Carolina and situate in the Counties of Nash and Edgecombe. It is a municipality operating a water system and other public services under the laws of this State, and, as such, is authorized by law to condemn any lands, either within or outside the corporate limits of the City, for the purposes of constructing and operating a water system and other public services which are authorized by its Charter and the laws of this State and which involve a public use and benefit.

2. The Petitioner (City of Rocky Mount) recently experienced a serious shortage of water which necessitated the rationing of water for both commercial and individual consumption; in order for the City to construct and carry on the public service of operating an adequate water system sufficient for immediate and future requirements of the City, the construction of certain water supply reservoir facilities is a necessity; and that adequate, sufficient and properly located and constructed water supply reservoir facilities are essential to the welfare, comfort, health and safety of the citizens of the City and surrounding area.

3. That Nat D. Pierson, of Pierson and Whitman, a noted and competent professional consulting municipal engineer, studied the existing water supply facilities in the City and found them inadequate and recommended that the City improve and enlarge the capacity of its water supply facilities by construction of a water supply reservoir along the Tar River; Mr. Pierson testified regarding his study and recommendation and advised that he had recommended to the City the construction of the water supply reservoir along the Tar River in the area where the City now intends to construct such facilities.

4. That in a special election held on Tuesday, January 14, 1969, the citizens of the City approved a $3 million water bond referendum for the acquisition of land and construction of a dam and water supply reservoir facilities at the location recommended, selected and approved.

5. That the City has acquired certain properties located in the area where it intends to construct its reservoir and is presently negotiating for the acquisition of other properties; that the City cannot acquire ownership and possession of all parcels of property required for the construction of a reservoir project in time necessary to complete the same except by the exercise of its right of eminent domain pursuant to Chapter 40, Article 3 of the General Statutes of North Carolina.

6. That the acquisition of fee simple ownership of the properties in question is necessary prior to advertising and accepting bids in connection with the construction of the facilities; and that the construction of the same and the acquisition of the property is in furtherance of the public health, safety and welfare and is necessary and in the public interest.

7. That the location, design and operation of the water supply reservoir facilities upon the property which the City intends to acquire is in accordance with the requirements of the North Carolina State Board of Health and the North Carolina Department of Water and Air Resources, including the North Carolina Board of Water Resources and its rules and regulations under the Dam Safety Law of 1967 (N.C. G.S. 143-215.24 et seq.); and said facilities have been duly approved by the North Carolina Department of Water and Air Resources and the North Carolina State Board of Health.

8. That the water supply reservoir facility is a public works project as defined in Article 3, Section 40-32 of the General Statutes of North Carolina.

9. That a resolution authorizing this petition and application for a Certificate of Public Convenience and Necessity, pursuant to Article 3, Section 40-53, General Statutes of North Carolina, and for the condemnation thereunder of the property for a water supply reservoir, was duly adopted by the City Council of the City of Rocky Mount

at its regular meeting held February 6, 1969, and that said resolution is in full force and effect; and that this Petition is filed pursuant to said resolution and the General Statutes.

10. Adequate, sufficient and properly designed and constructed water supply reservoir facilities are essential to the welfare, comfort, health, and safety of the citizens of the City of Rocky Mount and the entire community in which the Petitioner furnishes water services.

CONCLUSIONS

The Petition in this matter constitutes an adequate application by Petitioner to this Commission for a Certificate of Public Convenience and Necessity to construct water supply reservoir facilities by the City of Rocky Mount. The present water supply available to the City of Rocky Mount has been determined to be inadequate and insufficient. Previous experience has noted shortages sufficient to require gross rationing of the same to the detriment of the public health, welfare, convenience and safety. It is essential that the City of Rocky Mount provide facilities for the storage of a water supply sufficient to supply present and future needs of said City. This is necessary for the general protection of the public and is essential for the health and welfare of the people throughout the county. A vote of the people approved the cost of the construction of the facilities sought in this case by a twelve to one majority. This is a public works project under the terms and provisions of G.S. 40-30 and it is essential that the City have a Certificate of Public Convenience and Necessity from this Commission by virtue of G.S. 40-53. We conclude from the evidence in this case that it is necessary and essential that the City of Rocky Mount construct the water supply reservoir facilities in question, and that this construction or project, as such, is essential and necessary to the public health, safety and welfare. We also conclude that the Petitioner should be granted a Certificate of Public Convenience and Necessity for the construction of the proposed water supply reservoir facilities and that the construction of the same is required by the public convenience and necessity.

IT IS, THEREFORE, ORDERED That the City of Rocky Mount be, and it is, hereby granted a Certificate of Public Convenience and Necessity for the project consisting of the construction of certain water supply reservoir facilities, as described in the Petition in this cause and more particularly set forth in the testimony presented at the hearing and the record established.

IT IS FURTHER ORDERED That this order, within itself, shall constitute such Certificate of Public Convenience and Necessity to the City of Rocky Mount.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of August, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. H-47

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of the Statesville Housing Authority, Statesville, North Carolina, For a Certificate of Public Convenience and Necessity) RECOMMENDED ORDER GRANTING CERTIFICATE

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, May 22, 1969

BEFORE: John W. McDevitt, Hearing Commissioner

APPEARANCES:

For the Applicant:

John G. Lewis, Jr.
Raymer, Lewis & Eisele
Attorneys at Law
P. O. Box 127
Statesville, North Carolina 28677

McDEVITT, COMMISSIONER: The Statesville Housing Authority filed an application on April 18, 1969, for a Certificate of Public Convenience and Necessity for the establishment of a project of low-rent dwelling accommodations to consist of 250 units.

By order of the Commission issued April 22, 1969, public notice was given, the application was set for hearing as captioned, and the Applicant published notice thereof in the Statesville Daily Record on May 6 and 13, 1969.

The Authority offered the testimony of James R. Taylor, Executive Director, and T. Duke Williams, Chairman, and introduced ten (10) documentary exhibits tending to show that the Authority has complied with all statutory requirements prerequisite to the filing of its application. No protests were filed nor did anyone appear at the hearing to protest the granting of a certificate.

Based upon the evidence adduced, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. That the Statesville Housing Authority is a public body organized, incorporated, and existing under and by virtue of the Housing Authority Law of the State of North Carolina, Chapter 157 of the General Statutes, as evidenced by its Certificate of Incorporation issued by the Secretary of State on April 16, 1968.

2. That on November 20, 1967, more than 25 residents of the City of Statesville and of the area within 10 miles from the territorial boundaries thereof, filed a petition with the City Clerk of Statesville stating that inadequate, unsafe, and unsanitary living conditions exist in Statesville and calling upon the City Council of the City of Statesville to create a public housing authority as provided in Chapter 157 of the General Statutes of North Carolina.

3. That on January 2, 1968, after due notice, the City Council of Statesville held a public hearing for the purpose of considering the adoption of a resolution creating a housing authority at which time all residents and taxpayers were given an opportunity to be heard.

4. That subsequent to the public hearing the City Council adopted a resolution in which it determined that unsanitary and unsafe inhabited dwelling accommodations exist in the City of Statesville; that there is a lack of safe and sanitary dwelling accommodations for all inhabitants; that there is a need for a public housing authority; and directing that a housing authority be authorized and appointed by the Mayor.

5. That on April 8, 1968, pursuant to the Housing Authorities Law and the Resolution adopted by the City Council, the Mayor of the City of Statesville appointed five persons to serve as Commissioners of the Statesville Housing Authority.

6. That on April 9, 1968, the Statesville Housing Authority executed an application for a Certificate of Incorporation for the Statesville Housing Authority and on April 16, 1968, a Certificate of Incorporation was issued by the Secretary of State of North Carolina.

7. That on September 17, 1968, the Statesville Housing Authority adopted a Resolution stating that according to the 1960 United States census there were 740 renter-occupied substandard units within the corporate limits of Statesville which had a population of 19,844 persons and, based upon survey, inspection, analysis and study, there was a need for low-rent public housing which was not being met by private enterprise; that the Executive Director and Chairman prepare, sign and send to the Housing Assistance Administration, Department of Housing and Urban Development, an application for assistance for 250 dwelling units of low-rent public housing to be provided by new construction or by

acquisition or by acquisition and rehabilitation of existing housing and for a preliminary loan in the amount of $100,000 for surveys and planning.

8. That on October 7, 1968, the City Council of the City of Statesville adopted a resolution approving the application of the Statesville Housing Authority for 250 dwelling units and a $100,000 preliminary loan for surveys and planning.

9. That on April 3, 1969, the Department of Housing and Urban Development approved a preliminary loan contract providing for 250 housing units for the City of Statesville and a preliminary loan in the amount of $100,000 for the purpose of making surveys and planning in connection with low-rent housing projects.

10. That a public need exists for the construction by the Statesville Housing Authority of safe, sanitary low-rent dwelling units of the type proposed for occupancy, and the Statesville Housing Authority is ready, willing and able to carry out and fulfill its lawful purposes in connection with the establishment and maintenance of the project.

Based upon the Findings of Fact, the Hearing Commissioner makes the following

CONCLUSIONS

The Statesville Housing Authority has met the requirements of Chapter 157 of the General Statutes of North Carolina pertaining to the development, construction, establishment and operation of the proposed low-rent dwelling project and is entitled to a Certificate of Convenience and Necessity for the project as defined in the application and relevant documents.

IT IS THEREFORE ORDERED that the Statesville Housing Authority, Statesville, North Carolina, be, and is hereby, granted a Certificate of Public Convenience and Necessity for the development, construction, maintenance and operation of 250 dwelling units of low-rent public housing, and that this order shall constitute a Certificate of Public Convenience and Necessity for such purpose.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. H-11, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
The Application of the Housing Authority of the City of Wilson, Wilson, North Carolina for a Certificate of Public Convenience and Necessity for the Construction of 125 Additional Units of Public Housing to be undertaken by the Applicant to the end that it may, if necessary, acquire real estate for such purposes by the exercise of the right of eminent domain, pursuant to applicable sections of Chapter 157 of the General Statutes of North Carolina	) RECOMMENDED ORDER

HEARD IN: Hearing Room of the Commission, Raleigh, North Carolina on Wednesday, June 4, 1969 at 2 P.M.

BEFORE: Clawson L. Williams, Jr., Hearing Commissioner

APPEARANCES:

For the Applicant:

Louis B. Meyer, Esq.
Lucas, Rand, Rose, Meyer & Jones
Attorneys at Law
P. O. Box 2008, Wilson, North Carolina

WILLIAMS, HEARING COMMISSIONER: On May 2, 1969, the Housing Authority of the City of Wilson filed application to amend its Certificate of Public Convenience and Necessity to permit the establishment, development, construction, maintenance and operation of 125 additional units of low-rent housing and for authority to exercise the right of eminent domain for the acquisition of property upon which said units are to be constructed.

By Order of the Commission, dated May 8, 1969, the matter was set for public hearing before the Commission and notice was duly given by publication in The Wilson Daily Times, a newspaper having general circulation in the Wilson area and hearing was held as captioned.

No protests were filed with the Commission prior to the hearing, nor did anyone appear at said hearing in opposition to the application.

Based upon the evidence adduced at the hearing and the exhibits offered, the Commission makes the following

FINDINGS OF FACT

1. The Housing Authority of Wilson is a duly created and existing body corporate under the Housing Authority Law, Chapter 157 of the General Statutes of North Carolina.

2. The Housing Authority of Wilson holds a Certificate of Public Convenience and Necessity issued by Order of this Commission under date of March 9, 1960 in Docket No. H-11, which Order granted the right and power of eminent domain in connection with the acquisition of property necessary to construct 400 units of low-rent public housing.

3. All of the existing 400 units have been constructed and are presently occupied and there are now in excess of 225 applications from low-income families for occupancy of said units.

4. A survey, conducted by the Housing Authority of the City of Wilson in conjunction with the Department of Housing and Urban Development and the North Carolina Department of Conservation and Development Division of Community Planning, showed that there still exists approximately 2394 substandard residential units within the corporate limits of the City of Wilson and that there is an urgent need for additional low-rent housing units, which need cannot be fulfilled by private capital or private enterprise.

5. On March 14, 1968, the Housing Authority of Wilson adopted a resolution authorizing the Secretary of the Housing Authority of the City of Wilson to make application to the Department of Housing and Urban Development in the construction of 125 additional dwelling units for low-rent housing and approved the application for a preliminary loan of $50,000 for surveys and planning in connection with the construction of such units.

6. On November 21, 1968, the Housing Authority of the City of Wilson entered into a Preliminary Loan Contract with the Housing Assistance Administration of the United States Department of Housing and Urban Development in the amount of $50,000 for preliminary survey and planning of applicant's project.

7. The City of Wilson approved the action of the Housing Authority of the City of Wilson with reference to the construction of 125 additional units of low-rent housing.

8. The Housing Authority of the City of Wilson has complied with all necessary requirements to acquire property and construct 125 additional low-rent dwelling units and is entitled to have its Certificate of Public Convenience and Necessity amended to that end.

The Commission, therefore, reaches the following

CONCLUSIONS

The City of Wilson and the Housing Authority of the City of Wilson have met the requirements of law with respect to the construction, maintenance, and operation of low-rent housing units and urgent need has been demonstrated for additional low-rent housing units and this need cannot be met by private capital.

IT IS, THEREFORE, ORDERED That the Housing Authority of the City of Wilson is hereby granted an amendment to its Certificate of Public Convenience and Necessity to establish, construct, maintain, and operate 125 additional units of low-rent housing, and in that connection is authorized to exercise the power of eminent domain in the acquisition of property in the City of Wilson, North Carolina, and this Order shall constitute such Amendment to such Certificate.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-275, SUB 37

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Carolina Coach Company, Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Southern Coach Company and Queen City Coach Company for Authority to Discontinue Operation of the Raleigh Union Bus Station under the Board of Directors Plan, and to Approve a Lease Agreement for the Operation of Said Station by Carolina Coach Company) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on February 12, 1969 at 2 P.M.

BEFORE: Commissioners Harry T. Westcott, Chairman, presiding, John W. McDevitt, Clawson L. Williams, Jr., M. Alexander Biggs, Jr. and Marvin R. Wooten

APPEARANCES:

For the Petitioners:

Clarence H. Noah
Attorney at Law
1425 Park Drive
Raleigh, N. C. 27605
For: Southern Coach Company

D. L. Ward
Ward & Tucker
Attorneys at Law
New Bern, North Carolina
For: Seashore Transportation Company

Kenneth Wooten, Jr. and Ralph McDonald
Bailey, Dixon & Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina
For: Southern Greyhound Lines

R. C. Howison, Jr.
Joyner, Moore & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina
For: Queen City Coach Company

Arch T. Allen and Thomas W. Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
For: Carolina Coach Company

For the Commission Staff:

Edward B. Hipp, Commission Attorney
Larry G. Ford, Associate Commission Attorney

WILLIAMS, COMMISSIONER: By joint petition filed with the Commission on January 30, 1969, Carolina Coach Company, Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Southern Coach Company and Queen City Coach Company, seek authority to discontinue the Board of Directors system of governing the operations of the Union Bus Station located in the City of Raleigh, North Carolina, and permission for Carolina Coach Company, under appropriate working agreement with all carriers operating into the station, to operate the station and otherwise assume responsibility for the station, its facilities and administration.

Petition was filed on January 30, 1969 and by order of the Commission, dated February 4, 1969, the matter was set for hearing at 3 P.M. on February 12, 1969. Subsequently, on February 6, 1969, the Commission issued a second Order rescheduling said hearing for 2 P.M. February 12, 1969, at which time said hearing was held.

It appears from the petition and lease agreement attached thereto, that all carriers operating into the Raleigh Union Bus Station deem it to their best interest and that of the traveling public to discontinue the operation of said station under the Board of Directors plan and that to that end Petitioners have entered into a lease agreement dated January 15, 1969, under the provisions of which Carolina Coach Company will operate said station in accordance with the terms and conditions contained in said agreement.

Upon condsideration of the petition, and the evidence offered at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That in 1963, the petitioners, being all of the carriers operating into the Raleigh Bus Station, voluntarily placed the operation of said station under a Board of Directors which action was approved by this Commission, and said station has been operating as a Union Bus Station since that time.

2. That on January 9, 1969 a duly called special meeting of the Board of Directors of the Raleigh Station was held in Raleigh at which the Board considered the following provision of its Labor Agreement:

"Beginning with the second year of this Agreement, a funded pension plan, the details of which will be mutually agreed upon, will provide for all eligible permanent employees to contribute 3% of their basic compensation, such contribution to be matched by the Employer."

The Board was advised that two insurance companies had been approached regarding the pension plan and both had advised that the 3% contribution would not pay for the plan because of the small size of the group and that a contribution of 4-1/2% would be required.

3. That at said meeting Carolina Coach Company agreed to take over the operation of both the Raleigh and Durham Bus Stations under a contract and lease agreement with the other carriers as proposed herein so as to make the employees of those stations employees of Carolina Coach Company and enable them to come under Carolina's pension plan already in effect for its other employees and its drivers on a 3% contribution basis. It was unanimously agreed that this should be done and that the petitioner would seek approval by this Commission of the proposed contract.

4. That Carolina Coach Company's labor agreement is with the same union that presently holds an agreement on the Raleigh Union Bus Station and under the proposed lease agreement the employees of the Raleigh Union Bus Station will become employees of Carolina Coach Company and there will be no change in personnel.

5. It has been the experience of the carriers involved that a station manager employed by the operating carrier provides a better employer-employee relationship than a station manager appointed by a Board of Directors.

6. That the union representing the employees of Carolina Coach Company and the Raleigh Bus Station is familiar with this proposed change in the operation of this bus station and this change is satisfactory to said union.

7. That the Raleigh Bus Station Company can be operated more economically, efficiently and harmoniously under the proposed agreement than under its present operation by a Board of Directors.

8. That the proposed lease agreement filed with the petition and offered into evidence, under date of January 15, 1969, is fair and reasonable and should be approved.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

It appears from the petition and the evidence that the request to discontinue the Board of Directors plan of operation of the Raleigh Union Bus Station is reasonable and justified. It would appear that under the proposed operation of Carolina Coach Company, the employees of the station would be able to obtain greater pension plan benefits at lower costs by belonging to the larger bargaining group composed of Carolina's employees as a whole rather than remaining employees of the Board of Directors of

the union station. All of the petitioners seem to agree that the station can be operated efficiently and harmoniously under the proposed lease agreement.

IT IS, THEREFORE, ORDERED That the Lease and Operating Agreement entered into on January 15, 1969 by and between Carolina Coach Company and Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Southern Coach Company and Queen City Coach Company, for the operation of the Raleigh Union Bus Station be, and the same is hereby approved and Carolina Coach Company is permitted to operate said station in accordance with the terms of said agreement, and petitioners are authorized to discontinue the operation of said station under the Board of Directors plan and to cancel the lease-operating agreement and by-laws heretofore approved by this Commission in docket No. B-275, Sub 1 and are authorized to cancel the sublease of Carolina Coach Company to Raleigh Union Bus Station Corporation and Raleigh Union Bus Station Corporation is hereby relieved from the requirements set forth by the Commission in its Docket No. B-275, Sub 132 and from the rules and regulations relating to the operation of union bus stations to the extent that the same are inconsistent with or contrary to the terms of the Lease Agreement, dated January 15, 1969, and approved herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of March, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-275, SUB 37

BIGGS, COMMISSIONER, DISSENTING: In 1963 the management of the Raleigh Union Bus station was placed under a Board of Directors comprised of representatives of the bus carriers operating into the station. This was done voluntarily by the bus carriers following years of controversy and dispute over the operation of the station by Carolina Coach Company. When the bus companies failed to agree to such form of bus station management at several other cities in the State, the Commission conducted extensive hearings in 1964 and 1965 which consumed 12 hearing days and required 2,065 pages of transcript to record the testimony of 135 witnesses, not to mention the 165 exhibits that were also received. The order entered in that proceeding (Docket No. B-275, Sub 6) stated, in part, as follows:

> ". . . By its very nature the union bus station requires complete impartiality in the treatment of all carriers operating into the station and the public as well. . . .

"It seems unfortunate that years ago, in establishing union stations, partiality instead of strict impartiality was the by-product of allowing or requiring Carolina Coach Company to occupy a dominant roll in the operation and management of the union bus stations at Durham and Raleigh. . . . We conclude that it is this historic pattern which, in the modern competitive climate, offers the greatest remaining obstruction to impartiality in the union bus stations of the State.

"Through the adoption of relatively independent Boards of Directors at Durham, Raleigh, and Wilmington, the carriers themselves have removed these stations many steps from the partiality of a few years ago, enough that neither station can accurately be referred to as under complete dominance of any particular carrier today.

"On optimism generated by the apparent success of the Board of Directors form of station control at these locations, the Commission has sought to encourage the establishment of Boards of Directors and management independent of dominance and control of any particular carrier, or system of carriers, at other points. By rule and otherwise, the Commission has for several years looked to the carriers themselves for acceptance of the progressive examples at Durham, Raleigh, and Wilmington, and has waited upon carrier cooperation in allowing other major competitive points to be operated independent of any particular carrier's historic dominance and control."

* * *

"Competition which for any reason influences an otherwise impartial manager, ticket agent, or other employee of a union station to artifically prefer a particular line is not legitimate competition. It is destructive of carrier interests as a whole. It is also an abuse of the traveling public, which must rely upon the ticket agent and manager to serve all carriers and prefer none, looking primarily to the earliest, shortest, most convenient, and comfortable ride for the passenger."

Now, on a record contained in only 25 pages of transcript and two exhibits and involving only the testimony of two bus company witnesses, given in less than one day of hearing, the bus carriers seek to return to the old system of bus station management in Raleigh, whereunder the station will be operated solely by Carolina Coach Company. The only reason given is that the pension plan for the bus station employees cannot be successfully established on the basis agreed to by the union and the companies. It appears that a contribution of 4 percent instead of the agreed 3 percent would have to be made by the employer and employee in order to make feasible an independent pension plan for the bus station employees, whereas the 3 percent contribution will suffice if the employees are brought under the Carolina Coach Company plan. There was no indication that the

employees would object to the somewhat larger contribution, and, in my mind, the whole matter boiled down to the bus companies' unwillingness for the independently operated station to increase its contribution to the plan by 1 percent. As I understand the evidence, such increased contribution would be nominal.

It was conceded by the bus company witnesses that the Board of Directors plan has worked well at the Raleigh Station, that there have been no disagreements over the station operation under this plan, and that but for the pension plan problem the station would continue under the Directors.

Questions involved herein are: whether the showing made herein by the bus companies justifies a return to a system which breeds and encourages partial, rather than impartial, treatment of the carriers and the public; whether such showing overrides the considerations which caused the Commission three years ago to refer to the Raleigh Bus Station operation as a "progressive example"; whether the evidence presented here is sufficient to show that the abuses of the past, at some locations, which frequently caused passengers to be misinformed or misled as to schedules and to be routed "around the horn", will not recur or begin occurring if the station management is returned to a single carrier; and whether the advantages of placing the station employees under the pension plan of Carolina Coach Company are significant enough to risk the recurrence of problems that have heretofore been injurious to the other carriers and the public.

On the evidence thus far presented, I am compelled to answer these questions in the negative and to dissent to the approval given by the majority.

M. Alexander Biggs, Jr., Commissioner

DOCKET NO. B-275, SUB 38

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of the Board of Directors representing Carolina Coach Company, Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Queen City Coach Company, Southern Coach Company, for authority to discontinue operation of the Wilmington Union Bus Station under the Board of Directors Plan according to an Operation Agreement dated July 1, 1933, and to approve an agreement for the operation of said station by Seashore Transportation Company) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on April 24, 1969, at 2:00 P.M.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten (Presiding)

APPEARANCES:

For the Applicants:

D. L. Ward
Ward and Tucker
Attorneys at Law
P. O. Box 867
New Bern, North Carolina
For: Board of Directors
Wilmington Union Bus Passenger Station
Wilmington, North Carolina

Thomas W. Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058
Raleigh, North Carolina
For: Carolina Coach Company

For the Intervenors:

R. C. Howison, Jr.
Joyner, Moore & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina
For: Queen City Coach Company

John F. Ray
P. O. Box 2387, Charlotte, North Carolina
For: Queen City Coach Company

Clarence H. Noah
Attorney at Law
1425 Park Drive
Raleigh, North Carolina
For: Southern Coach Company

For the Commission's Staff:

Larry G. Ford
Associate Commission Attorney
Ruffin Building
Raleigh, North Carolina

WOOTEN, COMMISSIONER: Petition was filed with the Commission by the Board of Directors of the Wilmington Union Bus Station on March 12, 1969, seeking authority to discontinue the Board of Directors system of governing the operations of the Union Bus Station located in the City of Wilmington, North Carolina, and for permission for Seashore Transportation Company, under appropriate working agreement with all carriers operating into said station, to operate

the station and otherwise assume responsibility of the station, its facilities, and administration.

Petition was filed on March 12, 1969, and by order dated March 19, 1969, the matter was set for hearing at 2:00 p.m. on April 24, 1969.

It appears from the petition that a majority of all carriers operating into the Wilmington Union Bus Station deem it to their best interest and that of the travelling public to discontinue the operation of said station under the Board of Directors plan. The petitioners offered the following witnesses who testified in part as follows:

Mr. R. C. O'Bryan, Traffic Manager of Seashore Transportation Company, and Chairman of the Board of Directors of Wilmington Union Bus Station, testified in support of the petition in this case and the deplorable condition existing under the present Board of Directors operation.

Mr. Fred Mock, Assistant Regional Manager of Greyhound Lines, Inc., and a director on the Board of Directors of the Wilmington Union Bus Station, testified generally in support of the petition and the final majority action of the Board of Directors.

Mr. W. G. Humphrey, Vice President and Traffic Manager of Carolina Coach Company, also testified in support of the petition and to many difficulties and problems involved in the present Board of Directors Union Bus Station operation.

Mr. Lewis Wade, President of Southern Coach Company, who is an intervenor in this case, testified that he would be agreeable to Seashore Transportation Company operating the bus station in Wilmington if the Commission decided to dissolve the Board of Directors operation, advising that in his opinion the present operation was satisfactory.

Mr. J. H. Quattlebaum, Vice President in Charge of Sales and Traffic, Queen City Coach Company, Charlotte, North Carolina, testified that his company would support the petition provided a satisfactory agreement regarding the building of a new bus station could be reached. He advised that his company's support would be conditioned upon terms and conditions regarding the building and operation of the forthcoming new bus station, and would otherwise object to such petition unless and until agreement among the parties could be attained.

Mr. C. H. Hall, Vice President and General Manager of Seashore Transportation Company, testified that he was of the opinion that it was necessary to dissolve the Board of Directors plan for the Wilmington operation. He also testified that his company would not be willing to build a new bus station alone, but would be agreeable to operating the same.

Upon consideration of the petition, and the evidence and testimony offered at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That the Wilmington Union Bus Station is now operated under a Board of Directors Plan pursuant to an operating agreement entered into the first day of July, 1933, by and between Queen City Coach Company, Atlantic Greyhound Corporation (now Greyhound Lines, Inc., Southern Greyhound Lines Division), Carolina Coach Company, Seashore Transportation Company, Southern Coach Company and W B & S Bus Lines, Inc.

2. That Atlantic Greyhound Corporation is now operating under the name of Greyhound Lines, Inc., Southern Greyhound Lines Division, and W B & S Bus Lines, Inc., does no longer operate in the Wilmington Union Bus Station.

3. That said Lease Agreement provides, among other things, that the affairs of the Wilmington Union Bus Station shall be administered by a Board of Directors consisting of one person designated by each of the carriers named in this agreement so that each Director shall cast in any station meeting the same number of votes as the percentage of his company's ticket sales shall be of the total station sales for the preceding six (6) completed months and that all station expenses shall be prorated among the participating carriers on the ticket sales basis.

4. That the present Wilmington Union Bus Station lease expires on January 11, 1970, and the owners have indicated that they do not desire to extend the lease and it is the opinion of the carriers that the station is antiquated and that a new station in Wilmington is necessary in the public interest.

5. That the carriers operating into the Wilmington Union Bus Station have been attempting to locate a suitable and agreeable site for a new station to recommend to this Commission, and have finally located and agreed upon a site; that the Board of Directors have not agreed upon plans and specifications for a new building on said site, nor plans for the financing of such new building.

6. That for many years the Wilmington Union Bus Station operated under said agreement and the public interest was served under this operation; however, in the past several years many troublesome problems and questions have arisen over the operation of the station under this plan, and the carriers have not been able to resolve all of them satisfactorily, and it is the opinion of the majority of the carriers that the public interest will be best served if one carrier operates the station; it is the opinion of some of the carriers that either plan of operation will be satisfactory; and the opinion of other carriers that a

single carrier operation would be preferred provided construction and lease arrangements and agreements could be mutually agreed upon.

7. On March 6, 1969, the Board of Directors met in Wilmington to make definite plans and decisions as to the building of a new station and the operation of said station; that the parties have not been able to agree regarding the building of a new station to serve the public in Wilmington, North Carolina, and therefore have not been able to agree upon the operation of the present or future bus station since the building of the future bus station is the foundation of the problem to total agreement among all of the carriers.

8. That labor problems, supervision, and authoritative lines of communications have created impossible and difficult problems in the operation of the present Wilmington Station under the present plan which have not been resolved and are in need of resolving in the public interest.

9. That all of the operating carriers appear to agree upon the operation of the Wilmington Bus Station by one carrier, to wit: Seashore Transportation Company, if and only if an agreement can be reached regarding the location and building of the new station to be used after the expiration of their present lease.

10. That the present union bus station in Wilmington is not suitable for continued bus station operation; that the present lease expires January 11, 1970; that the present Board of Directors operation is not serving in the best interest of the travelling public in, to, and through said City.

11. That the "Lease Agreement, Wilmington Union Bus Station," proposed to be entered into by the parties and introduced into evidence is agreeable to all of the carriers operating in said station subject to their basic disagreements, above referred to, regarding the construction of a new bus station facility; that the proposed lease agreement offered into evidence is fair, just and reasonable and should be approved, if and when the other problems confronting the carriers are resolved and the contract is executed.

12. That the Wilmington Union Bus Station can be operated more economically, efficiently and harmoniously under the proposed agreement referred to in Paragraph 11 above than under its present operation by a Board of Directors, if and when the other questions herein referred to are resolved.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. Adequate bus station facilities commensurate with the requirements of the travelling public must be provided by all motor carriers of passengers subject to the jurisdiction of this Commission in Wilmington, North Carolina.

2. A union passenger bus station common to all intrastate common carriers must be established, located and maintained in Wilmington, North Carolina, upon the expiration of the present lease on the present facilities, and such facility must be so located as to best serve the public.

3. It appears from the petition and evidence that the request to discontinue the Board of Directors plan of operation of the Wilmington Union Bus Station is founded upon just and reasonable grounds; that the proposed operation by Seashore Transportation Company would better serve the public in the present location, if and when the present Board of Directors are able to agree upon the site and construction plans and specifications, under a lease agreement similar to that favorably submitted herein; and that the present and future operations of the Wilmington Bus Station can be efficiently and harmoniously conducted under the proposed lease agreement only after the parties have resolved their differences.

4. That the present bus station facilities in Wilmington are not adequate to suit and serve the needs of the travelling public there; that the present lease expires January 11, 1970, and that all of the carriers operating into said station have the burden and responsibility of securing, building, maintaining, and operating a suitable bus station facility under suitable plans, specifications and agreements all in the best interest of the travelling public in the said City.

5. That the operating agreement entered into the first day of July, 1933, by and between Queen City Coach Company, Atlantic Greyhound Lines Corporation, Carolina Coach Company, Seashore Transportation Company, W B & S Bus Lines, Inc., and Southern Coach Company providing for a Board of Directors to operate the Wilmington Union Bus Station should be dissolved in the public interest only after full agreement by the parties with reference to the matters with which they are presently in disagreement.

6. That Seashore Transportation Company is the fit and proper carrier to operate said Wilmington Union Bus Station on a nonprofit basis with the other carriers operating in said station to pay their pro rata share of the expenses based on ticket sales, with the operating companies to sign an operating agreement with Seashore Transportation Company similar to the operating agreement now in effect at the Greensboro and Durham Bus Stations and similar to the

tentative operating agreement introduced into evidence in this case, at such time as all of the carriers are able to resolve their present differences; and that until such time the public interest requires and demands the continuation of the present Board of Directors plan; and that Seashore Transportation Company is deemed the fit and proper carrier to so operate so long as it operates as an independent carrier subject to the above conditions.

IT IS, THEREFORE, ORDERED:

1. That the operating agreement entered into the first of July 1933, by and between Queen City Coach Company, Atlantic Greyhound Corporation, Carolina Coach Company, Seashore Transportation Company, W B & S Bus Lines, Inc., and Southern Coach Company providing for a Board of Directors to operate the Wilmington Union Bus Station be, and the same is, hereby dissolved, in the public interest, EFFECTIVE upon approval by this Commission of a plan to provide new and adequate bus station facilities commensurate with the requirements of the travelling public in Wilmington, North Carolina, in accord with Ordering Paragraph 3 below; and

2. That Seashore Transportation Company shall operate said Wilmington Union Bus Station upon dissolution of the Board of Directors plan for said station, on a nonprofit basis and that the operating carriers in said station shall pay their pro rata share of the expenses based on ticket sales and that the operating companies shall submit to this Commission for approval such operating agreement as the parties may enter into in connection with the operation of said station; and that said operation by Seashore Transportation Company shall continue from the effective date thereof for an indefinite period and until further ordered by this Commission; and

3. That the Board of Directors of the Wilmington Union Bus Station and Carolina Coach Company, Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Queen City Coach Company, and Southern Coach Company, shall forthwith proceed to prepare, agree upon and submit to this Commission for approval not later than June 2, 1969, a plan to provide adequate union bus station facilities commensurate with the requirements of the travelling public in Wilmington, North Carolina, with projected operation and completion date of January 11, 1970.

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of May, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-275, SUB 38

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Petition of the Board of Directors representing Carolina Coach Company, Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Queen City Coach Company, Southern Coach Company, for authority to discontinue operation of the Wilmington Union Bus Station under the Board of Directors Plan according to an Operation Agreement dated July 1, 1953, and to approve an agreement for the operation of said station by Seashore Transportation Company	) ORDER

WOOTEN, COMMISSIONER: Petition was filed with the Commission by the Board of Directors of the Wilmington Union Bus Station on March 12, 1969, seeking authority to discontinue the Board of Directors system of governing the operations of the Union Bus Station located in the City of Wilmington, North Carolina, and for permission for Seashore Transportation Company, under appropriate working agreement with all carriers operating into said station, to operate the station and otherwise assume responsibility of the station, its facilities, and administration.

Petition was filed on March 12, 1969, and by order dated March 19, 1969, the matter was set for hearing at 2:00 p.m. on April 24, 1969.

Upon consideration of the petition, and the evidence and testimony offered at the hearing, the Commission entered its order dated May 15, 1969, ordering, among other things, that the Board of Directors of Wilmington Union Bus Station and Carolina Coach Company, Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Queen City Coach Company, and Southern Coach Company, shall forthwith proceed to prepare, agree upon and submit to this Commission for approval not later than June 2, 1969, a plan to provide adequate union bus station facilities commensurate with the requirements of the traveling public in Wilmington, North Carolina, with projected operation and completion date of January 11, 1970.

In compliance with the Order of this Commission, the parties met in Raleigh, North Carolina, on May 26, 1969, and by majority vote adopted a plan set forth in the Minutes of the meeting. Certain carriers felt that the matter as adopted should be submitted to their superior offices for approval or disapproval. The Commission has been advised by Greyhound Lines, Inc., Southern Greyhound Lines Division, of its approval of the plan as adopted, and Queen City Coach Company advises that they expect approval momentarily.

Minutes of the May 26, 1969, meeting were filed with the Commission by Attorney D. L. Ward, representing the

Wilmington Union Bus Station Board of Directors under his letter of May 30, 1969. Approval of the plan as adopted was received from Greyhound by letter dated June 6, 1969. Comments regarding the plan's approval by Queen City Coach Company were received from J. H. Quattlebaum, of that Company, dated June 2, 1969. Mr. John Ray, Attorney for Queen City, advised the Commission on June 11, 1969, by telephone that it approves the plan as adopted.

The record reveals that the prorate of sales of tickets and express originating at Wilmington, North Carolina, between the companies operating out of the Wilmington Union Bus Station during 1968 is as follows:

Greyhound	24.60%
Continental Queen	30.46%
Seashore Transportation	39.06%
Carolina Coach Company	3.44%
Southern Coach Company	2.44%

Minutes of the Board of Directors meeting of May 26, 1969, estimate the cost of the new bus station building at $100,000.00 and the estimated cost of land in Urban Renewal at between $25,000.00 and $35,000.00.

Upon consideration of the foregoing and the entire and complete record in this matter, the Commission makes the following

CONCLUSIONS

1. Adequate bus station facilities commensurate with the requirements of the traveling public must be provided by all motor carriers of passengers subject to the jurisdiction of this Commission in Wilmington, North Carolina.

2. A union passenger bus station common to all intrastate common carriers must be established, located and maintained in Wilmington, North Carolina, upon the expiration of the present lease on the present facilities, and such facility must be so located as to best serve the public.

3. That the present bus station facilities in Wilmington are not adequate to suit and serve the needs of the traveling public there; that the present lease expires January 11, 1970, and that all of the carriers operating into said station have the burden and responsibility of securing, building, maintaining, and operating a suitable bus station facility under suitable plans, specifications and agreements all in the best interest of the traveling public in the said City.

4. That the theory and spirit of the proposed plan for the construction of a new bus station facility in Wilmington, North Carolina, for use by all companies operating therefrom, commensurate with the requirements of

the traveling public, with projected completion and operation date of January 11, 1970, is in the public interest, and should be approved, to the extent and in accord with this order.

IT IS, THEREFORE, ORDERED:

1. That the five operating carriers at Wilmington, North Carolina, (to wit: Carolina Coach Company, Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Queen City Coach Company and Southern Coach Company) shall forthwith proceed to form and organize a corporation in accord with the laws of the State of North Carolina, said corporation shall be named Wilmington Union Bus Station Corporation and shall have a Board of Directors consisting of one representative of each of the said five operating carriers, with each such carrier to select its own representative on said Board of Directors.

2. That the five operating carriers referred to in 1. above shall forthwith invest in the purchase and ownership of stock in said Wilmington Union Bus Station Corporation and that each said company, through its representative, shall vote on the basis of its initial investment in accord with the following schedule of percentages:

Greyhound	24.60%
Continental Queen	30.46%
Seashore Transportation	39.06%
Carolina Coach Company	3.44%
Southern Coach Company	2.44%

3. That the plan adopted by the five operating carriers, by a majority vote of the Board of Directors of the Wilmington Union Bus Station, at its meeting in Raleigh, North Carolina, on May 26, 1969, be, and it is, hereby further approved as follows:

(a) if a carrier ceases to serve Wilmington and surrenders its certificate into Wilmington, North Carolina, the other carriers will purchase the stock of that carrier at a price depreciated at 2% per annum of the original investment;

(b) if the operating rights of a carrier should be acquired by another carrier, such acquiring carrier shall also acquire the stock investment of the carrier discontinuing service; and

(c) if at anytime after a six year period of operation, any carrier should desire to separate from the Wilmington Union Bus Station with the approval of the North Carolina Utilities Commission, such carrier shall buy the stock of the other carriers or shall sell its stock to the other carriers, at the option of such other carriers, at the value of the original

investment reduced at the rate of six (6) percent per year of operation.

4. That the five (5) operating carriers, Carolina Coach Company, Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Queen City Coach Company, and Southern Coach Company, acting by and through the Wilmington Union Bus Station Corporation, shall forthwith proceed to execute the plan herein ordered and approved, to provide adequate union bus station facilities commensurate with the requirements of the traveling public in Wilmington, North Carolina, in accord with the laws of this State and rules of this Commission, with projected operation and completion date of January 11, 1970.

5. That the operating agreement entered into the first of July 1953, by and between Queen City Coach Company, Atlantic Greyhound Corporation, Carolina Coach Company, Seashore Transportation Company, W B & S Bus Lines, Inc., and Southern Coach Company providing for a Board of Directors to operate the Wilmington Union Bus Station be, and the same is, hereby dissolved, in the public interest.

6. That Seashore Transportation Company shall operate said Wilmington Union Bus Station on a nonprofit basis and that the operating carriers in said station shall pay their pro rata share of the expenses based on ticket sales and that the operating companies shall submit to this Commission for approval such operating agreement as the parties may enter into in connection with the operation of said station; and that said operation by Seashore Transportation Company shall continue from the effective date thereof for an indefinite period and until further ordered by this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. B-275, SUB 38

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of the Board of Directors representing Carolina Coach Company, Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Company, Queen City Coach Company, Southern Coach Company, for authority to discontinue operation of the Wilmington Union Bus Station under the Board of Directors Plan according to an Operation Agreement dated July 1, 1953, and to approve an agreement for the operation of said station by Seashore Transportation Company) ORDER

BY THE COMMISSION: It appears from a Report and Motion in the Cause in this case filed on the 17th day of September, 1969, under date of September 16, 1969, that the parties to this matter, and each of them, have agreed upon and executed Articles of Incorporation for the Wilmington Union Bus Station Corporation; that after the corporation was formed corporate officers were elected and authorized to proceed to acquire the site in Wilmington, North Carolina, which had prior approval of the North Carolina Utilities Commission and to proceed with plans for the construction of a Wilmington bus terminal; that they have agreed upon the building, financing, and operating of a new Union Bus Station in Wilmington for which they here seek approval; that the Operating Agreement between the parties hereto is dated August 1, 1969, and that the parties hereto have agreed upon a Lease Agreement leasing the Wilmington Union Bus Station to Seashore Transportation Company under the terms thereof, which is dated August 1, 1969, the parties hereto Move the Commission to approve the Operating Agreement dated August 1, 1969, and the Lease Agreement dated August 1, 1969, copies of which are attached and submitted to the Commission for approval.

The terms and conditions of the above referred to Agreement and Lease are fully set out in the verified copies of the same attached to the Motion. Upon consideration thereof, the Commission is of the opinion and finds that said Lease Agreement and Operating Agreement are in the public interest, and in accord with the spirit and intent of the Commission's Orders dated May 15, 1969, and June 13, 1969, herein, and that the same, as submitted should be approved.

IT IS, THEREFORE, ORDERED:

That the said Operating Agreement dated August 1, 1969, and the said Lease Agreement dated August 1, 1969, by and between the parties hereto, be, and the same are, hereby approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-15, SUB 158

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Carolina Coach Company, 1201 South Blount Street, Raleigh, North Carolina, for additional operating authority) ORDER

HEARD IN: Commission's Hearing Room, Raleigh, North Carolina, on November 14, 1969, at 11:00 A.M.

BEFORE: Chairman Harry T. Westcott, presiding, Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Arch T. Allen and Arch T. Allen, III
Allen, Steed & Pullen
Attorneys at Law
Box 2058, Raleigh, North Carolina

BY THE COMMISSION: By application filed with the Commission on October 6, 1969, Carolina Coach Company (Applicant) seeks to amend its Common Carrier Certificate No. B-15 to include authority to engage in 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:

Route 1. From Tarboro over North Carolina Highway 44 to Oak City, thence over North Carolina Highway 11 to junction North Carolina Highway 305, and thence over North Carolina Highway 305 to Aulander, and return over the same route serving all intermediate points.

Route 2. From Scotland Neck over North Carolina Highway 125 to Hobgood, and thence over North Carolina Highway 122 to junction U.S. Highway 258, and return over the same route serving all intermediate points.

Route 3. From Charlotte over Interstate Highway 85 to junction combined U.S. Highways 29 and 601 near China Grove, and return over the same route serving all intermediate points.

Notice of said application was published in newspapers of general circulation in the territory proposed to be served, once each week for two (2) successive weeks prior to the hearing date. No protests were filed and no one appeared at the hearing in opposition thereto.

The evidence reveals that the authority applied for, as described in Routes 1 and 2, is within and through a section of the State which is served exclusively by Applicant. The terminal points of Tarboro, Aulander and Scotland Neck are presently and have for a number of years been served by Applicant and the new routes applied for are over highways and between points and places which have not previously had service by Applicant or any other motor carrier of passengers. The application for such authority was filed pursuant to the request of a large number of citizens of the affected area who had petitioned Applicant and the Commission for bus service. There are presently six (6) roundtrip bus schedules operated over U.S. Highway 258 serving Scotland Neck and Rich Square and if the application is granted, it is proposed that three (3) of said trips be diverted over N.C. Highways 44 and 11 between Tarboro and Aulander via Oak City and Lewiston. The proposed operation between Tarboro and Scotland Neck via Hobgood will result in the diversion of only one (1) schedule which presently operates between said points over U.S. Highway 258. The diversion of these schedules to the proposed new routes will not materially affect existing service.

The authority which Applicant seeks as described in Route 3 between Charlotte and China Grove over Interstate Highway 85 is intended for the use of non-stop express schedules which now operate between said points over U.S. Highway 29. The only change in service will be the diversion to Interstate 85 of the express trips presently operated over the old highway. The proposed operation over the new interstate highway is intended to provide passengers a much safer, quicker and improved service between Charlotte and China Grove.

It is requested by Applicant that the beginning of operations under a grant of any authority applied for herein be made effective concurrently with interstate operations which cannot begin until an application for corresponding authority which is now pending before the Interstate Commerce Commission has been acted upon by that regulatory body.

Upon consideration of the application, the evidence presented and the testimony of record, the Commission makes the following

FINDINGS OF FACT

(1) That public convenience and necessity requires the proposed service in addition to any existing authorized transportation service,

(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

Carolina Coach Company is a certificated common carrier of passengers, their baggage, mail and light express. Applicant operates over a large area of the State of North Carolina, including the area in which the routes applied for are located, pursuant to Common Carrier Certificate No. B-15 heretofore issued to Applicant by this Commission.

The proposed service as described in Routes 1 and 2 of the application has been requested by a great number of citizens, public officials and others who reside at intermediate points along said routes and within the said territory. Petitions for service have been filed with Applicant and with the Commission and informal conferences have been held, all with the view towards obtaining common carrier bus service over and along said routes.

The proposed route over Interstate Highway No. I-85 is sought as an alternate route for operating convenience only and is intended for the non-stop express buses now operated by Applicant between the involved points. The granting of said authority will not result in the diversion of any local service presently being offered by Applicant over U.S. Highway 29, which will continue to receive the identical service which it is now getting. The only change which will result is an improved service to those passengers using the non-stop express service between Charlotte and China Grove.

Based upon the record, the evidence presented in this case and the foregoing findings of fact, it is the conclusion of the Commission that Applicant has borne the burden of proof required by statute and that the authority sought should be granted.

IT IS, THEREFORE, ORDERED That the application of Carolina Coach Company in this docket be, and the same is, hereby granted and that Common Carrier Certificate No. B-15, heretofore issued to Applicant, be amended to include the authority more particularly described in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Carolina Coach Company comply with the rules and regulations of the Commission and begin operations, under the authority herein granted, concurrently with corresponding interstate authority, an application for

which is now pending before the Interstate Commerce Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of November, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

Carolina Coach Company
Raleigh, North Carolina — Certificate No. B-15

EXHIBIT A — To transport passengers, their baggage and light express over the following routes serving all intermediate points except as to such restrictions as may be indicated in the route description.

Route 1. From Tarboro over North Carolina Highway 44 to Oak City, thence over North Carolina Highway 11 to junction North Carolina Highway 305, and thence over North Carolina Highway 305 to Aulander, and return over the same route serving all intermediate points.

Route 2. From Scotland Neck over North Carolina Highway 125 to Hobgood, and thence over North Carolina Highway 122 to junction U.S. Highway 258, and return over the same route serving all intermediate points.

Route 3. From Charlotte over Interstate Highway 85 to junction combined U.S. Highways 29 and 601 near China Grove, and return over the same route serving all intermediate points.

DOCKET NO. B-7, SUB 82

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Greyhound Lines, Inc., for a common carrier franchise certificate to transport passengers, their baggage, mail and light express over the following routes: Between Fayetteville, North Carolina, and the junction of U.S. Highway 401 and the Cumberland County Road No. 1611 From Fayetteville, North Carolina, over North Carolina Highway 87 to Fort Bragg, North Carolina; thence over Cumberland County Road 1613 to its junction with Cumberland County Road 1600; thence over said County Road 1600 to its junction with Cumberland County Road 1611; thence over said County Road 1611 to its junction with U.S. Highway 401, serving all intermediate points RESTRICTION: No passenger is to be transported whose entire ride is between Fayetteville and Fort Bragg, North Carolina	) FINAL ORDER FOLLOWING REMAND FROM COURT OF APPEALS

BY THE COMMISSION: This proceeding is before the Commission upon remand from the Court of Appeals of North Carolina for findings of fact in accordance with the opinion of the Court filed on April 2, 1969, and the Judgment of the Court entered on April 14, 1969, remanding the case to the Utilities Commission for causes indicated in said opinion.

Pre-hearing conference was held on September 22, 1969, to determine the procedure upon remand, at the conclusion of which the Commission ordered and directed that the remand proceeding would be on oral argument from counsel for the respective parties on the questions of further findings of the Commission on the record and transcript of the original hearing.

Oral argument on the remanded proceeding was heard on September 25, 1969. The applicant Greyhound Lines, Inc. and the protestants Queen City Coach Company and Fort Bragg Coach Company and the intervenor Department of Defense appeared through counsel and were heard in oral argument on the questions and further findings upon remand as directed in the decision and judgment of the Court of Appeals, based upon the evidence and record established in the original public hearing in this proceeding.

The oral argument was heard before Chairman Harry T. Westcott, presiding, and Commissioners John W. McDevitt, Clawson L. Williams, Jr., M. Alexander Biggs, Jr., and Marvin R. Wooten.

The Commission has considered the argument of counsel and the issues upon which the proceeding was remanded to the Commission by the decision of the Court of Appeals of April 2, 1969.

The decision of the Court of Appeals stated on page 10 and 11 as follows: "The Commission's order in this case contains no findings of fact with respect to whether the granting of the application would endanger or impair the operations of the existing carriers contrary to the public interest, nor is there a finding with respect to whether the existing carriers can reasonably meet the public needs... For that reason the matter must be remanded for findings of fact in accordance with this opinion."

The Commission has considered the testimony and exhibits from the record of the public hearing in September, 1967, and reaffirms the findings of fact Nos. 1, 3, 4, and 5 of its Order of July 31, 1968, and the Conclusions Nos. 1, 2, 3, 4 and 6 of said Order of July 31, 1968. Findings of Fact No. 2 and Conclusion No. 5 are unsupported or irrelevant and are deleted. Based upon further consideration of the record herein and the oral argument of counsel the Commission makes the following additional and supplementary

FINDINGS OF FACT

6. That the new service proposed by Greyhound from Fayetteville, North Carolina, to Fort Bragg and thence through Eureka Springs to Highway 401, and thence over Highway 401 and alternate routes to Linden, Erwin, Lillington, Buies Creek, Coats, Angier, Raleigh, Durham, and Henderson, constitute a new route and service which is not the same as the routes and service of the protestants Queen City Coach Company or Fort Bragg Coach Company. Neither Queen City nor Fort Bragg is authorized under their franchise to serve from Fort Bragg through Eureka Springs to Highway 401, and the service applied for here by Greyhound does not duplicate the operation of Queen City or Fort Bragg.

7. The route authorized for Greyhound from Fayetteville to Fort Bragg and thence through Eureka Springs to Highway 401 does not authorize transportation of passengers between Fayetteville and Fort Bragg and does not duplicate and is not the same service as Fort Bragg Coach Company and Queen City offer on a commuter basis between Fort Bragg and Fayetteville.

8. The service proposed by Greyhound offers a valuable convenience to the traveling public in that the prospective passengers at Fort Bragg desiring to go to Lindon, Erwin, Coats, Buies Creek, Angier, Wake Forest, Franklinton, Kittrell, and Norlina may board the Greyhound bus in Fort Bragg and go direct to these points. Queen City and Fort Bragg Coach do not offer this service. The present service requires that such passengers board a Fort Bragg Coach

Company bus at Fort Bragg and go to Fayetteville and get off the bus and get on a Greyhound bus to go up Highway 401 for their destination. In addition to the convenience involved, the proposed service of Greyhound offers more economical service to the customers in saving unnecessary mileage south from Fort Bragg to Fayetteville and back north up Highway 401 as far as the distance from Fort Bragg. For example, a passenger riding from Fort Bragg direct over the proposed service through Eureka Springs to points on Highway 401 north of Fayetteville will save mileage charges on fares computed on the standard bus mileage based rates as compared to the present mileage for such a trip made south from Fort Bragg to Fayetteville via Fort Bragg Coach Company and then north up Highway 401 to the destination. Greyhound map, Exhibit No. 5, shows the distance from Fort Bragg via Eureka Springs to Highway 401 to be 5.8 miles, whereas the distance from Fort Bragg via Fayetteville to the same point on Highway 401 is 15.8 miles, or a saving of 10 miles in mileage based rates, in addition to saving the unnecessary transfer in buses in Fayetteville.

9. That the number of passengers who will utilize the service proposed by Greyhound from Fort Bragg through Eureka Springs to Highway 401 and thence to points north will not be a substantial number of passengers in relationship to the number of passengers commuting between Fort Bragg and Fayetteville by Fort Bragg Coach Company, and the convenience to such passengers of a direct through route over the proposed Greyhound service as compared to the present use of Fort Bragg Coach Company to Fayetteville and thence change to Greyhound outweighs any loss of revenue or passengers heretofore using Fort Bragg Coach Company, and there is no substantial injury to Fort Bragg Coach Company. The public convenience to the relatively small number of such passengers of a direct route outweighs the loss to Fort Bragg Coach Company of this relatively small number of passengers who will use the direct service proposed by Greyhound.

10. There is no convincing evidence of any impairment of operations of the Fort Bragg Coach Company from the operation of the proposed Greyhound service contrary to the public interest. The testimony of Fort Bragg Coach Company was that there was little or no use for the proposed service and that very few passengers will use the proposed service. Based upon the evidence and the entire record, the Commission finds that the granting of the application would not endanger or impair the operations of the Fort Bragg Coach Company contrary to the public interest and would not endanger or impair the operations of Queen City Coach Company contrary to the public interest.

11. The existing carriers, Queen City Coach Company and Fort Bragg Coach Company, cannot reasonably meet the public needs demonstrated on the record for the direct through service from Fort Bragg through Eureka Springs to Highway 401 and to points north therefrom on Greyhound routes. The

existing carriers do not offer the direct service proposed by Greyhound. The only manner in which the public can reach the destinations proposed in the Greyhound application is to go south from Fort Bragg to Fayetteville by Fort Bragg Coach Company and to transfer there from Fort Bragg Coach Company to a Greyhound bus going back north on Highway 401.

12. The Commission finds as a fact that this service by the existing carriers does not reasonably meet the public need for direct service from Fort Bragg to points north on Greyhound Lines. It causes unnecessary and wasteful delay in transit through traveling additional miles and through unloading from Fort Bragg Coach Company and reloading, including baggage, to Greyhound bus for points north. Such existing service causes unnecessary and wasteful expense through additional bus fare for the additional mileage involved in the unnecessary trip back to Fayetteville, as described in paragraph 8 above. Fort Bragg has a present military and civilian population of 55,000 people served exclusively by the commuter type service between Fort Bragg and Fayetteville offered by Fort Bragg Coach Company and by the service of Queen City Coach Company from its route from Fayetteville north on Highway 87, and its additional point at Eureka Springs. The evidence of Queen City Coach Company is that it had served Fort Bragg from this route as a flag stop, but has offered to place Fort Bragg as a regular stopping point for its route on Highway 87. The flag stop by Queen City Coach Company offers convenience to passengers to and from Fort Bragg from points north on Queen's route on Highway 87, through the additional advantage of direct service to such points without requiring such passengers to go from Fort Bragg to Fayetteville on Fort Bragg Coach Company and transfer to Queen north back up Highway 87 to points beyond Fort Bragg. The same convenience is justified for Fort Bragg passengers desiring the service now offered by Greyhound for passengers from Fort Bragg desiring direct service to points north on Greyhound's route up Highway 401. The Queen City Coach Company service from Fayetteville to Fort Bragg and thence to Eureka Springs terminates at Eureka Springs and is not duplicated by the proposed Greyhound service through to Highway 401 and to points north on Greyhound Lines.

13. The addition of the service proposed by Greyhound for those passengers desiring direct transportation to points north on Greyhound Lines will not impair the operations of existing carriers contrary to the public interest.

14. The operations of Queen City and Fort Bragg Coach Company will not be impaired by the proposed service contrary to the public interest as they do not offer the principal direct transportation offered to the public under the proposed Greyhound routes.

15. The Fort Bragg-Fayetteville commuter service of Fort Bragg Coach Company on a frequent schedule basis will not be adversely affected by any charter service that might accrue

to Greyhound from granting of the route applied for. Fort Bragg Coach Company conducted its entire operation for the year 1966 on a profitable basis with operating ratio of 96.8 per cent without the benefit of any charter service revenues. The 1966 annual report of Fort Bragg Coach Company, of which judicial notice was taken at page 726 of the transcript, shows that all of the revenue came from regular route intercity service, and all of the bus miles operated by Fort Bragg Coach Company were operated in regular route service. No bus miles were operated by Fort Bragg Coach Company in charter service and no revenue came from charter service; thus, any charter service performed by the protestants would have been performed by Queen City Coach Company, which does not offer the commuter service between Fort Bragg and Fayetteville. The ability of Fort Bragg Coach Company to render the commuter service would thus not suffer any financial detriment or adverse effect sufficient to jeopardize its ability to offer service by virtue of the proposed Greyhound routes, including any charter service that might accrue to Greyhound as result of such proposed Greyhound routes.

CONCLUSIONS

The Commission has considered all of the matters set forth in the decision of the Court of Appeals filed in this proceeding on April 2, 1969, and has reviewed all of the facts of record and heard argument from counsel. Consideration has been given to the two factors considered and remanded by the Court of Appeals for Findings of Fact relating to whether the granting of the application would endanger or impair the operations of the existing carriers contrary to the public interest or whether the existing carriers can reasonably meet the public needs. Based upon the additional Findings of Fact set forth above, the Commission concludes from its Findings of Fact on the two factors upon which the case was remanded that the original Order herein of July 31, 1968, should be affirmed.

WHEREFORE, IT IS HEREBY ORDERED that Greyhound Lines, Inc. be, and it is hereby, granted a Certificate of Convenience and Necessity to the extent as shown in Exhibit A hereto attached and made a part hereof, subject to compliance with the conditions and requirements relating to the filing of schedules with the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of October, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

Commissioner Biggs took no part in the issuance of the final Order, having left office on September 30, 1969, but prior

to leaving office recorded his position not to concur in granting the application.

DOCKET NO. B-7, SUB 82

Greyhound Lines, Inc.
10 South Riverside Plaza
(Gateway Center)
Chicago, Illinois 60606

EXHIBIT A

Transportation of passengers, their baggage, mail and light express over the following routes:

Between Fayetteville, North Carolina, and the junction of U. S. Highway 401 and Cumberland County Road No. 1611.

From Fayetteville, North Carolina, over North Carolina Highway 87 to Fort Bragg, North Carolina; thence over Cumberland County Road 1613 to its junction with Cumberland County Road 1600; thence over said County Road 1600 to its junction with Cumberland County Road 1611; thence over said County Road 1611 to its junction with U.S. Highway 401, serving all intermediate points.

RESTRICTION: No passenger is to be transported whose entire ride is between Fayetteville and Fort Bragg, North Carolina.

DOCKET NO. B-297

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Ned C. Northcutt, Morven, North Carolina, for passenger common carrier certificate to transport school children to and from a private school near the Town of Wadesboro, North Carolina) RECOMMENDED ORDER

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on August 26, 1969, at 9:30 A.M.

BEFORE: E. A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

Ned C. Northcutt
Morven, North Carolina
Appearing for himself

For the Protestant:

Henry S. Manning, Jr.
Joyner, Moore & Howison
Box 109, Raleigh, North Carolina
Appearing for Queen City Coach Company

HUGHES, EXAMINER: By application filed with the Commission on August 5, 1969, Ned C. Northcutt seeks authority to engage in the transportation of school children from Morven over U.S. Highway 52 to McFarlan; thence over County Road #1003 to Cason Old Field; thence over N.C. Highway 742 to Wadesboro, N.C., and return over the same route. Prior to the hearing, the application was amended to include a route from Cason Old Field to Lowrys over County Road #1003; thence over N.C. Highway 109 to Wadesboro.

Notice of the application, together with the time and place of hearing, was given to connecting and competing carriers by the Commission and published in a newspaper of general circulation in the territory proposed to be served, once each week for two (2) successive weeks prior to the date of the hearing. Within apt time, protest thereto was filed by Queen City Coach Company to that portion of the proposed route between Morven and McFarlan.

At the opening of the hearing, Applicant agreed to a restriction proposed by Protestant, Queen City Coach Company, which would prohibit the origination by Applicant by charter service in the Towns of Morven, N.C., McFarlan, N.C., or Wadesboro, N.C., or at any point within five (5) airline miles of said municipalities. The amendment was allowed, whereupon, Queen City Coach Company, through its Attorney, withdrew its protest.

The evidence tends to show that Applicant is the owner of two (2) buses adequate for the transportation of school children; that two (2) experienced drivers have been employed to drive the buses; that Applicant has a net worth in the amount of some $40,000; that he is familiar with the meaning of terms as defined in Section G.S. 62-3 of the Public Utilities Act, with the insurance requirements of the Commission, with the requirements with respect to rates and charges and the filing of tariffs and with the safety rules and regulations of the Commission. The application is supported by the Headmaster of the Anson County Private School, located near Wadesboro, who represents, among other things, that it is anticipated that said school will commence classes on September 8, 1969, and that enrollment in said school consists of children living throughout Anson County; that as of now there is an enrollment of some two hundred and ten (210) students in Grades 1 through 8; that of this number, there are approximately eighty (80) students who reside in Morven or Gulledge Townships and who will find it necessary to obtain transportation from their homes to the school; that the Towns of Morven, McFarlan and the communities of Cason Old Field and Lowrys are all located in

Morven and Gulledge Townships; that there is no bus service being rendered by said school but one of the requirements of enrollment is that the students furnish their own transportation. Additional evidence in support of the application was received in the form of affidavits from thirty (30) parents of children in the involved area who have already enrolled their children in the Anson County Private School.

Upon consideration of the evidence adduced, the testimony of record and the affidavits in support of the application, the Hearing Examiner makes the following

FINDINGS OF FACT

(1) That public convenience and necessity requires the service proposed in the application as amended, and restricted, in addition to existing authorized transportation service,

(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

Upon consideration of the evidence presented 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 sought and that said application, as amended and restricted, should be granted.

IT IS, THEREFORE, ORDERED That the application of Ned C. Northcutt, Morven, North Carolina, as amended and restricted, 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 Ned C. Northcutt 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 granted within thirty (30) days from the date that this order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

Ned C. Northcutt
Morven, North Carolina Docket No. B-297

EXHIBIT A

To transport school children over the following routes serving all intermediate points:

From Morven over U.S. Highway 52 to McFarlan; thence over County Road 1003 to Lowrys; thence over N.C. Highway No. 109 to Wadesboro and over N.C. Highway 742 from Cason Old Field to Wadesboro. Return over the same routes.

RESTRICTIONS: Applicant shall originate no charter service from the Towns of Morven, McFarlan or Wadesboro or at any point within five (5) airline miles of said municipalities.

DOCKET NO. B-105, SUB 25

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of the Proposed Elimination of Murphy, North Carolina, as an Equipment Point in Connection with Charter Trips by Smoky Mountain Stages, Inc.) ORDER

HEARD IN: The Commission's Hearing Room, Raleigh, North Carolina, on November 25, 1969, at 10:00 A.M.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten (Presiding)

APPEARANCES:

For the Respondent:

Henry S. Manning, Jr.
Joyner, Moore & Howison
Attorneys at Law
906 Wachovia Building
Raleigh, North Carolina

For the Commission's Staff:

Larry G. Ford
Associate Commission Attorney
N.C. Utilities Commission
Ruffin Building
Raleigh, North Carolina

No Protestants

WOOTEN, COMMISSIONER: These proceedings arise upon the filing by National Bus Traffic Association, Inc., Agent, 506 South Wabash Avenue, Chicago, Illinois, of a tariff schedule, for and on behalf of Smoky Mountain Stages, Inc., proposing the elimination of Murphy, North Carolina, as an equipment point in connection with charter party trips, said publication being scheduled to become effective September 15, 1969, and designated as Seventh Revised Page B-5 Cancels Sixth Revised Page B-5 to National Bus Traffic Association, Inc., Agent, Carolina Charter Coach Tariff No. A-426, N.C.U.C. No. 199, the abbreviation "Elim" in the fourth column opposite Murphy. Being of the opinion that the proposed tariff was a matter affecting the public interest, the Commission by Order of September 11, 1969, suspended the same and instituted an investigation into and concerning the lawfulness of the tariff schedule suspended.

Upon the call of the matter for hearing, the Respondent, Smoky Mountain Stages, Inc., presented one witness, Mr. Malcolm Myers, who is the Director of Traffic for the Respondent. Mr. Myers testified that the tariff filed in this case, if approved, has the effect of eliminating Murphy, North Carolina, as an equipment point; that an "actual equipment point" is a point where buses and drivers are stationed and maintained; that a "tariff equipment point" or "paper equipment point" is a point from which rates are figured and at which no buses or drivers are stationed and maintained; that Murphy is not an "actual" equipment point but is a "paper" equipment point and is a holdover point from the days of World War II when business in the area was good; that there has been a constant decline in charter business in the Murphy area, both inter and intrastate, which caused the same to become for many years a "paper equipment point" as contrasted to an "actual equipment point"; that no equipment or drivers are maintained by the respondent in Murphy; that his company has one bus which makes regular trips between Atlanta, Georgia, and Murphy, North Carolina, and in so doing, the bus and driver spend the night in Murphy and return to Atlanta the following day; that Asheville is 100 miles east of Murphy and is an "actual equipment point"; that Atlanta is approximately 105 miles south of Murphy and is an "actual equipment point"; that at present, for charter trips to and from points nearer to Murphy than Asheville and Atlanta, the respondent suffers an economical loss due to the long miles of deadhead driving for which there is no charge under the present existing tariff; that during the twelve months from 8/11/68, to 7/31/69, only three intrastate charters were involved and that two of those, because of their nature and exceptions in their present tariff, would not be affected by the tariff changes here proposed; and that as to one such charter trip, this revised tariff would constitute a rate increase; that only one trip was made during the test period which would be affected by the tariff changes here proposed; that the company, in proposing the tariff changes here, is

merely requesting authority to charge for actual services rendered and thereby correct what is presently considered as an unfair situation; that during the first ten months of 1969, revenues for the company were up $25,000 over 1968 and that during the same period, operating expenses were up approximately $90,000 because of inflation; that net operating revenue for the first ten months of 1969 was $30,000 and during the same period of 1968 was $96,000; that Murphy, North Carolina, was cancelled as a "paper equipment point" for interstate traffic on September 15, 1969; that operation with Asheville as the actual equipment point without deadhead charges, and the listing of Murphy as a "paper or tariff equipment point" renders the same non-compensatory; that operating cost for the charter service in 1968 was 47.61 cent per mile and for the same period of 1969 was 51.67 cent per mile; and that to maintain equipment and drivers in Murphy, North Carolina, with the lack of business in that area, would be more expensive than the absorbing of the deadhead mileage from the Asheville point to the Murphy area.

The respondent presented three exhibits showing the three charter bus orders for the test period as Travel Tours, Inc., Wilcox Travel Agency, and Domestic Lace Manufacturing, Inc., and rested.

The staff presented one witness in the person of Mr. I. H. Hinton, Assistant Director of Traffic for the North Carolina Utilities Commission, Raleigh, North Carolina. Mr. Hinton identified and testified regarding one staff exhibit which was a statement showing present and proposed mileage charges for illustrated round trip charter movement from Murphy, North Carolina, to Raleigh, North Carolina, and percent of increase proposed over present charges; said exhibit shows an increase in cost of $94.50 for such a trip; Mr. Hinton testified that any trip west, north, east, or south of Murphy would increase the percentage of increase in the rate so long as such charter trips were restricted to areas nearer to Murphy than Asheville; and that the percentage of increase in this limited business would be 16.6% to 20.5% and higher, depending upon the size of the bus.

Having carefully considered all the competent evidence of record and based upon the entire record as a whole, the Commission makes the following

FINDINGS OF FACT

1. That the Respondent, Smoky Mountain Stages, Inc., the participant in the tariff schedule under suspension in this proceeding, proposing the elimination of Murphy, North Carolina, as an equipment point in connection with charter party trips, is subject to the jurisdiction of, and regulation by this Commission, and said carrier is properly before the Commission in this proceeding.

2. That it is not economically feasible to maintain equipment and drivers for charter party service in Murphy, North Carolina, by respondent due to the lack of charter party business in the area; that the respondent does not maintain any drivers or equipment in Murphy, North Carolina; and that the company has, under its present tariff, been required to absorb the cost of approximately 105 miles deadhead expense at an economical loss.

3. That there has been a continued diminution of charter party business available in the Murphy area for many years; and that such diminution of charter party business has rendered the operation of Murphy, North Carolina, as an equipment point "actual" or "tariff", non-revenue producing and expensive to the company and thereby to the ratepayers.

4. That the respondent is in need of the relief here sought, and the proposed and suspended tariff should be allowed to become effective.

5. The rates under suspension in this proceeding are found to be economically and otherwise just and reasonable.

CONCLUSIONS

In view of the record in this proceeding and the foregoing findings of fact, we conclude that the proposed elimination of Murphy, North Carolina, as an equipment point in connection with charter party trips, and the resultant increase in rates and charges, should be allowed to become effective.

IT IS ACCORDINGLY ORDERED

1. That the Order of Suspension in this docket dated September 11, 1969, be, and the same is hereby, vacated and set aside for the purpose of allowing the suspended tariff hereinbefore named and described to be made effective.

2. That the publication authorized hereby may be made on one day's notice to the Commission and to the public and the respondent shall otherwise comply with the rules and regulations of this Commission covering the publication, posting and filing of tariff schedules.

3. That upon publication authorized hereby having been made, this proceeding be, and the same is hereby, considered as discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of November, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-295

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application for approval of transfer of Motor Passenger Common Carrier Certificate No. B-80 from Sharon Coach Company, Inc., to Carolina Transit Lines of Charlotte, Inc.) ORDER APPROVING TRANSFER

By joint application filed with the Commission on May 1, 1969, approval is sought for the transfer of Common Carrier Certificate No. B-80, together with the operating rights contained therein, from Sharon Coach Company, Inc. (Transferor) to Carolina Transit Lines of Charlotte, Inc. (Transferee).

It appears from the application and the documentary evidence attached thereto, that the Transferee corporation, Carolina Transit Lines of Charlotte, Inc., was organized under the laws of the State of North Carolina on October 10, 1968; that the principal managing officers of said corporation are Clyde Neely Herron, President; Wilbert Thompson, Vice President, and Robert P. Gaddy, Secretary and Treasurer; that there are no debts or claims against Transferor and that Transferee corporation is adequately financed to meet such reasonable demands as the business may require.

It further appears from the application and from the records of the Commission that the authority contained in Certificate No. B-80 has been leased to and operated by Clyde N. Herron, as an individual, doing business as Carolina Transit Lines, for some eleven (11) years; that the authority contained in said Certificate is active and that said operations have been in continual use up to and including the time of filing of this application; that said Clyde N. Herron has now incorporated his business in the name of Carolina Transit Lines of Charlotte, Inc.; that the new corporation has entered into an agreement with Sharon Coach Company, Inc., for the transfer of the involved authority to Transferee corporation and that the total consideration involved in the proposed transaction is $1,000.00.

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 Passenger Common Carrier Certificate No. B-80, together with the operating rights described in Exhibit A hereto attached and made a part hereof, from Sharon Coach Company, Inc., to Carolina Transit Lines of Charlotte, Inc., be, and the same is, hereby approved.

IT IS FURTHER ORDERED That Carolina Transit Lines of Charlotte, Inc., Charlotte, North Carolina, 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.

IT IS FURTHER ORDERED That the franchise lease agreement between Sharon Coach Company, Inc., and Clyde N. Herron, d/b/a Carolina Transit Lines, be, and the same is, hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of May, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

EXHIBIT A

Carolina Transit Lines of Charlotte, Inc.
224 Iverson Way
Charlotte, North Carolina

EXHIBIT A

(1) 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.

(2) 1. Leaving the City of Charlotte by way of South Boulevard and proceeding south along what is known as the Pineville Road, the same being U.S. Highway 21, to the intersection of said U.S. Highway No. 21 with the old Pineville Road at the Diamond Point Service Station, turning to the right at Diamond Point Service Station, proceeding across the Southern Railway in the old Pineville Road to its intersection with the County Highway No. 35, proceeding thence a short distance to the intersection of said highway with County Highway No. 2 and proceeding along County Highway No. 2 in a southerly direction, crossing County Highway No. 34, passing Radio Station WBT and proceeding to the point where

said County Highway No. 2 is intersection with County Highway No. 33; thence turning to the left on County Highway No. 33 and proceeding along same to the point where County Highway No. 33 intersects U.S. Highway No. 21 at the city limits of the Town of Pineville. Return over the same route.

Restriction: The rights above granted shall not include the right to transport any passenger over the routes of the Charlotte City Coach Lines which may be transported from origin to destination by the city buses of said company.

Ref: Order dated July 29, 1947, in Docket No. 3924.

2. Leaving the City of Charlotte by way of South Boulevard, traversing the Pineville Road, U.S. Highway No. 21 to the point where said road is intersected by the Old Pineville Road at the Diamond Point Service Station, turning to the right at said service station for a short distance on the Old Pineville Road to the point where said road intersects the Nations Ford Road; thence along the Nations Ford Road to the intersection of said road with County Highway No. 34, turning to the left on County Highway No. 34 to the point where said highway intersects the Old Pineville Road; thence along Old Pineville Road toward Charlotte to the Diamond Point Service Station and from that point leading to Charlotte on U.S. Highway No. 21.

3. Leaving the City of Charlotte by way of the Park Road and proceed along the Park Road by Frank Graham's Dairy to the point where the said Park Road is intersected by Selwyn Avenue Extended, proceeding then along Park Road, passing the Sharon Golf Course and proceeding by

the road known as County Highway No. 3 to the Town of Pineville, returning from Pineville to Charlotte by the following route:

Traversing County Highway 3 known as Park Road to the point of its intersection with Sharon Road, turning on the right on Sharon Road, known as County Highway 4 and proceeding along Sharon Road, passing Sharon Presbyterian Church and Sharon Public School to the point where Sharon Road is intersected by a belt road, leading off to the left and connecting Sharon Road and Park Road, and proceeding along said belt road to its intersection with Park Road and following Park Road back to Charlotte.

4. Leaving the City of Charlotte by way of Crescent Avenue Extension by way of Griertown; thence along County Highway No. 6 approximately two miles to the point where said highway intersects the Amity Road and turning left on County Highway No. 52 known as Sharon View Road, and following Sharon View Road to its intersection with County Highway No. 51 known as Carmel Road; thence in a southerly direction along Camel Road to its intersection with the Matthews-Pineville highway, known as County Highway No. 50, N.C. Highway No. 51, and proceeding thence to Pineville along N.C. Highway No. 51. Return to Charlotte over the same route. Dockets 3827 and 3924.

5. Leaving the City of Charlotte by way of South Tryon Street and proceeding south along the York Road (N.C. Highway 49) to its intersection with Woodlawn Road (County Highway No. 36); thence turning to the left and proceeding a short distance along Woodlawn Road, crossing

County Highway No. 35, to the intersection of the Woodlawn Road with the old Pineville Road.

6. Leaving the City of Charlotte by way of East 7th Street and proceeding in an easterly direction along East 7th Street crossing the Briar Creek Bridge, to a point a short distance from the easterly side of said bridge where East 7th Street (Monroe Road) intersects a road leading from a residential section known as Griertown; thence turning to the right and proceeding on said road through Griertown for a short distance to the intersection of said road with County Highway No. 6; thence proceeding for a short distance along said County Highway No. 6 to its intersection with a road leading from a residential section known as Stumptown; thence turning left and proceeding on said road through Stumptown to its intersection with a belt road (connecting County Highway No. 6 and the Monroe Road); thence turning to the left and proceeding on said belt road for a short distance to its intersection with a road known as Craig Avenue; thence turning to the right and proceeding on Craig Avenue to its intersection with Amity Road (County Highway No. 56) and thence turning to the right and proceeding on Amity Road to its intersection with County Highway No. 6.

7. From the intersection of the Sharon-Amity Road (County Highway No. 56) with Randolph Road (County Highway No. 6) and proceeds thence over Randolph Road (County Highway No. 6) for a distance of approximately 1.6 miles to Sardis Road (County Highway No. 60); thence along Sardis Road (County Highway No. 60) for a distance of approximately 4.6 miles to the

intersection of Sardis Road with North Carolina Highway No. 51.

8. From Park Road along Woodlawn Road (County Highway No. 36) approximately 1.7 miles to the intersection of said Woodlawn Road with the old Pineville Road.

9. From the intersection of Woodlawn Road (County Highway No. 36) with Scalybark Road (County Highway No. 38) and proceeds thence along Scalybark Road for a distance approximately 1.5 miles to Diamond Point, being the intersection of Scalybark Road with the new Pineville Road (U.S. Highway No. 21). Docket B-80.

DOCKET NO. B-296

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application for approval of transfer of a portion of the authority contained in Common Carrier Certificate No. B-23 from Cape Fear Valley Coaches, Inc. to Wilson Bus Company, Inc.) ORDER APPROVING TRANSFER

By joint application filed with the Commission on May 26, 1969, approval is sought for the transfer of a portion of the authority contained in Common Carrier Certificate No. B-23 from Cape Fear Valley Coaches, Inc. (Transferor), to Wilson Bus Company, Inc. (Transferee). The authority involved in the proposed transaction reads as follows:

"Between Fayetteville, N.C., and Hope Mills, N.C., as follows: From Fayetteville, N.C., to the junction of U.S. Highway 301, N.C. Highway 87 and Southern Avenue, via Southern Avenue, Cumberland Road to Cumberland, N.C., via County Highway to No. 2 Mill Store, Hope Mills, N.C., without any restrictions."

It appears from the application and the documentary evidence attached thereto, that the Transferee corporation, Wilson Bus Company, Inc., is incorporated under the laws of the State of North Carolina; that the principal managing officers of said corporation are A. T. Watson, President, and William E. Acker, Secretary-Treasurer; that there are no debts or claims against Transferor and that Transferee corporation is adequately financed to meet such reasonable demands as the business may require.

It further appears from the application and from the records of the Commission that Wilson Bus Company, Inc., presently operates the intracity transit system within the City of Wilson, North Carolina, and its commercial zone; that the principal stockholders have been in the passenger transportation business for some sixteen (16) years and are fully qualified by experience and otherwise to conduct operations under the involved authority and provide adequate service on a continuing basis; that there are no connecting or competing carriers and that the transaction will not result in any substantial change in the service and operations of any motor carrier of passengers party to the transaction or substantially affect the operations and services of any other motor carrier.

Upon consideration thereof, the Commission is of the opinion and finds that the proposed transfer is not inconsistent with the purposes of the Public Utilities Act and that said application should be approved.

IT IS, THEREFORE, ORDERED That the transfer of a portion of Passenger Common Carrier Certificate No. B-23, more particularly described in Exhibit A hereto attached and made a part hereof, from Cape Fear Valley Coaches, Inc., to Wilson Bus Company, Inc., be, and the same is, hereby approved.

IT IS FURTHER ORDERED That Wilson Bus Company, Inc., Fayetteville, North Carolina, 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.

IT IS FURTHER ORDERED That Exemption Certificate No. EB-463, heretofore issued to Wilson Bus Company, Inc., be, and the same is, hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-296

Wilson Bus Company, Inc.
426 Mayview Street
Fayetteville, 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. Between Fayetteville, N.C., and Hope Mills, N.C., as follows: From Fayetteville, N.C., to the junction of U.S. Highway 301, N.C. Highway 87 and Southern Avenue, via Southern Avenue, Cumberland Road to Cumberland, N.C., via County Highway to No. 2 Mill Store, Hope Mills, N.C., without any restrictions.

DOCKET NO. E-294

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Joint application of the City of Asheville, a municipal corporation, and Lawrence C. Stoker, d/b/a Suburban Coach Lines, for approval of Lease and Option Agreement) ORDER

HEARD IN: Courtroom, Buncombe County Courthouse, Asheville, North Carolina, on May 7, 1969, at 9:00 A.M.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten, Presiding

APPEARANCES:

For the Applicant:

Herbert L. Hyde & Robertson Wall
Van Winkle, Buck, Wall, Starnes & Hyde
Attorneys at Law
18 1/2 Church Street
Asheville, North Carolina
For: Asheville Transit Authority
City of Asheville

For the Commission's Staff:

Larry G. Ford
Associate Commission Attorney
N.C. Utilities Commission
Ruffin Building
Raleigh, North Carolina

No Protestants

WOOTEN, COMMISSIONER: By joint application filed with the Commission on March 18, 1969, the City of Asheville (Lessee), a municipal corporation, duly chartered under the

laws of the State of North Carolina, and Lawrence C. Stoker, d/b/a Suburban Coach Lines (Lessor) seek approval of a Lease and Option Agreement under the terms of which said Lessor proposes to lease unto said Lessee, with option to purchase, certain motor carrier franchise rights within the city limits of the City of Asheville and within one (1) mile outside the city limits of said municipality. Also included in the transaction are certain contractual rights to serve the Town of Biltmore Forest.

Said petition came on for hearing before the Commission on May 7, 1969, at which time parties were present and represented by counsel.

The application and the evidence tend to show that the City of Asheville, through its agency, the Asheville Transit Authority, on or about December 31, 1967, purchased from a Court Receiver, the transit system within the City of Asheville formerly operated by White Transportation Company; that said purchase included all of the equipment and operating rights of said White Transportation Company; that said sale was approved by the Superior Court of Buncombe County and that since December 31, 1967, intracity bus operations within the City of Asheville have been conducted by said Asheville Transit Authority. It further appears that by virtue of authority heretofore issued to him by this Commission, Lessor operates buses, within the City of Asheville and its commercial zone, over certain lines which parallel lines operated by Lessee; that in addition to operating within the City of Asheville, Lessor transports passengers over the streets and roads of the Town of Biltmore Forest, under and by virtue of a contractual arrangement with said Town; that Lessee deems it to be in the best interest of the residents of the City of Asheville, that it acquire from Lessor the operating rights sought herein, including the "rights and licenses" of Lessor to transport passengers on the streets and roads of the Town of Biltmore Forest and along those routes presently used by Lessor in connection with the transportation of passengers to and from Biltmore Forest, together with the right to receive any payment from said Town.

The total consideration involved in the proposed transaction, which includes the lease of fifteen (15) buses along with the described operating rights, is $42,500.00. The Lease and Option Agreement further provides that upon its termination on March 1, 1972, Lessee may acquire title to all of the assets included in said Lease and Option Agreement upon the payment of the sum of $1.00 to Lessor.

Testimony in support of the application was offered by Lawrence C. Stoker, the owner of Suburban Coach Lines, and by J. Nick Davis, Chairman of the Asheville Transit Authority. Mr. Stoker's testimony contained, among other things, evidence to the effect that a number of routes included in his Common Carrier Certificate No. B-13 are not being operated and that said routes are dormant. Mr. Davis

testified generally concerning the status of the Asheville Transit Authority and of a Federal grant of $883,000.00 to be matched by an appropriation of $660,000.00 by the City of Asheville, which funds will be used for the purpose of purchasing new buses and for the general upgrading of the municipal transit system for the City of Asheville and adjoining Biltmore Forest.

During the course of the hearing, Petitioner, City of Asheville, sought and received permission to amend the petition to request that Certificate No. B-102, which was acquired along with the other assets of White Transportation Company at the bankruptcy sale, be formally transferred to the City of Asheville. Subsequent to the hearing, however, a letter (treated as a Motion) was received by the Commission from the City of Asheville, through its attorney, requesting that Certificate B-102 be cancelled.

Upon consideration of the application, the testimony of record and the evidence adduced, the Commission makes the following

FINDINGS OF FACT

(1) That Lawrence C. Stoker, d/b/a Suburban Coach Lines, is the holder of Passenger Common Carrier Certificate No. B-13, which authorizes said carrier to furnish motor passenger service over some thirty-three (33) numbered franchise routes in and around the City of Asheville.

(2) That under the provisions of an agreed upon arrangement with the Town of Biltmore Forest, said Lessor operates buses over the streets and roads of the Town of Biltmore Forest and between points and places within the City of Asheville and said Town of Biltmore Forest.

(3) That a Lease and Option Agreement has been entered into between Lessee and Lessor under the terms of which said Lessor leases unto said Lessee, until March 1, 1972, all of the rights of Lessor to transport passengers from point to point within the city limits of Asheville and one (1) mile outside of the present city limits and as said city limits may hereafter be extended, with the understanding that Lessor may continue to operate buses between the Bus Terminal in the City of Asheville and points more than one (1) mile outside of the City of Asheville, with closed doors, within the present city limits or any extension thereof; that under the terms of the agreement, all charter rights of Lessor and Lessor's Asheville-Hendersonville-Brevard franchise are expressly excluded therefrom; that the total consideration involved in the proposed transaction is $42,500.00 and that upon the termination of the lease, Lessee may obtain title to all of said assets, including the operating rights, upon the payment of $1.00 to Lessor.

(4) That the routes in Lessor's Certificate No. B-13, involved in the proposed Lease and Option are Routes 2, 3,

4, 5, 6, 7, 8, 18, and 19, over which routes Lessor will, during the term of the lease, operate with closed doors within the City of Asheville and the area within one (1) mile of said city limits.

(5) That the record and investigation by the Commission discloses that Routes 1, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 26, 28, 29, 30, 31, 32, 33 and 34 have not been operated for several years and are dormant and should be cancelled from Lessor's Certificate No. B-13, under the provisions of G.S. 62-112(c) and that Certificate No. B-13 should be revised to show the elimination of said dormant franchises.

(6) That the Lease and Option Agreement entered into between the City of Asheville and Lawrence C. Stoker, d/b/a Suburban Coach Lines of date February 13, 1969, is in the public interest and should be approved.

(7) That Certificate No. B-102, heretofore issued to White Transportation Company, Inc., was purchased by the City of Asheville through its agency, the Asheville Transit Authority, as approved by the Resident Judge of the Buncombe County Superior Court by Order of the Court dated December 28, 1967, and that said certificate should be transferred to said Asheville Transit Authority.

CONCLUSIONS

(1) The City of Asheville, through its agency, the Asheville Transit Authority, on December 31, 1967, acquired at a bankruptcy sale, all of the assets including buses and franchise rights of White Transportation Company, Inc. Said Transit Authority has received a substantial grant from the Federal Government, which together with proceeds from a bond issue authorized by the residents of the City of Asheville, will be used to purchase thirty-five (35) new coaches and for updating and providing a modern transit system, commensurate with the requirements of a municipality such as the City of Asheville. The Transit Authority has employed an experienced management company to conduct the operations and the purpose of the application herein is to eliminate duplications of service by a competing line within the City of Asheville and its commercial zone, including Biltmore Forest. It is the conclusion of the Commission that the Lease and Option Agreement is in the public interest and should be approved, insofar as such approval from this Commission may be required.

(2) The motor passenger rights in Certificate No. B-13 were purchased by Lawrence C. Stoker, d/b/a Suburban Coach Lines, from one Jack Bryson, said sale and transfer being approved by the Commission in its order of February 8, 1966. Historically, the Bryson certificate has been in existence since 1943 and had been added to from time to time until at the time of its transfer to Mr. Stoker, the authority was a multipaged document consisting of some thirty-three (33)

routes authorizing service between Asheville and the outlying coves and rural areas in the Asheville vicinity. The records of the Commission will show that a large number of routes were added to the Certificate in the gasoline rationing period during the Second World War and its aftermath. Subsequent to the war years, when automobiles and gasoline again became available, the need for much of the service being rendered diminished to the point where certain routes became unprofitable and the carrier found it necessary to curtail service, and in many instances, to discontinue service altogether. Due to the lack of interest on the part of the public, when such operations were discontinued, no objections or protests were filed with the Commission and it is evident that in many instances, the carrier abandoned operations without notice to the Commission and without obtaining the written approval of the Commission. Consequently, the Commission had no knowledge of many of the discontinuances and at the time the Certificate was transferred from Bryson to Stoker, the record did not reflect the fact that a number of the routes were dormant and thus, Stoker was issued a Certificate consisting, to a great extent, of paper franchises which had not been operated in years.

G.S. 62-112(c), in part, reads as follows

"The franchise of a motor carrier may be cancelled under the provisions of this Section in any proceeding to sell or transfer or otherwise change control of said franchise brought under the provisions of G.S. 62-111, upon finding of dormancy as provided in this section."

The Commission concludes that Passenger Common Carrier Certificate No. B-13 should be revised and reissued to eliminate all of the routes therein found dormant in Finding of Fact No. (5).

(3) The Commission further concludes that Certificate No. B-102 should be transferred from White Transportation Company, Inc., to the Asheville Transit Authority. The Motion of the City of Asheville to cancel said Certificate, made subsequent to the hearing, will be treated in a separate proceeding.

IT IS, THEREFORE, ORDERED

That the Lease and Option Agreement of date February 13, 1969, between Lawrence C. Stoker, d/b/a Suburban Coach Lines, and the City of Asheville, involving franchise routes within the City of Asheville and its commercial zone, including routes leading to Biltmore Forest, be, and the same is, hereby approved, to the extent that such approval by this Commission is required under the provisions of applicable statutes.

IT IS FURTHER ORDERED That Exhibit A of Passenger Common Carrier Certificate No. B-13, heretofore issued to Lawrence

C. Stoker, d/b/a Suburban Coach Lines, be, and the same is, hereby amended to conform with Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Certificate No. B-102, containing the authority more particularly described in Exhibit B hereto attached, be, and the same is, hereby transferred from White Transportation Company, Inc., to the Asheville Transit Authority.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of June, 1969.

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

DOCKET NO. B-294

Lawrence C. Stoker, d/b/a
Suburban Coach Lines
Asheville, North Carolina Certificate No. B-13

EXHIBIT A (1) 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.

EXHIBIT A (2) 1. From West Chapel Road, terminal point of the corporate limits of the City of Asheville, to Buena Vista, over U.S. Highway 25.

2. From West Chapel Road, terminal point of the corporate limits of the City of Asheville, following West Chapel Road to Lincoln Road; thence on Lincoln Road to Shiloh Road, turning left on Shiloh Road to Caribou Road; thence on Caribou Road to a point beyond the Shiloh Colored High School.

3. From Buena Vista Station via Rock Hill Road to Leslie Rogers' Store and return.

4. 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.

5. From Pack Square in Asheville over South Spruce Street to College Street; thence over College Street to Oak Street; thence over Oak Street to Woodfin Street; thence over Woodfin Street and U.S. Highways 70 and 74 through Beaucatcher Tunnel, and by Haw Creek School to intersection of U.S. 74 and N.C. 81; thence over N.C. 81 via Municipal Golf Course and Recreation Park to Oten; thence over unnumbered roads known as Riceville Road and Bee Tree Road via Riceville and Warren-Wilson School to the plant of the Beacon Manufacturing Company at Swannanca, and return over same route to the intersection of College Street and Woodfin; thence over College Street to Pack Square.

6. Starting at Pack Square proceeding over South Spruce Street to College Street; thence over College Street and Poplar Street to tunnel following U.S. Highways 70 and 74 to intersection with Kenilworth Road; thence right on Kenilworth Road to Beaucatcher Road; thence right on Beaucatcher Road to intersection of Beaucatcher and Aurora Drive; thence left and following Aurora back to Kenilworth Road; over Kenilworth Road to Beaucatcher Road to intersection of U.S. Highways 70 and 74; over U.S. 70 to intersection of U.S. 70 and Old Haw Creek Road; thence following Old Haw Creek Road to intersection of New Haw Creek Road; thence left on New Haw Creek Road to the end of pavement; thence back down New Haw Creek Road to Miller's Store; thence over Beverly Road to U.S. 70; thence East on Bull Mountain Road approximately one mile; thence returning over Bull Mountain Road and Beverly Road to New Haw Creek Road; thence west over New Haw Creek Road to intersection of New Haw Creek Road and U.S. 70; thence over U.S. 70 via: Hollifield's Filling Station over the same route to intersection of Woodfin and College Streets; thence over College Street to Pack Square.

7. From Pack Square over South Spruce Street to College Street; thence over College Street to Oak Street; thence

over Oak Street to Woodfin Street; thence over Woodfin Street and U.S. Highways 70 and 74 through Beaucatcher Tunnel, and by Haw Creek School to intersection of U.S. 74 and N.C. 81; thence over N.C. 81 to intersection of Governors View Road to Fairway Drive in Beverly Hills; thence over Fairway Drive and unnamed streets in a circle of Beverly Hills to Kensington Drive; thence south on Kensington Drive to N.C. 81; thence over N.C. 81 via Recreation Park to Oteen; proceeding over Riceville Road to intersection of Lower Grassy Branch Road to Elmer Reed's Store; thence south on Lower Grassy Branch Road approximately 2.3 miles to intersection of U.S. Highway 70; thence west along and on U.S. Highway 70, a distance of approximately 7/10 mile to Oteen and return to Asheville along said route.

RESTRICTED: To closed doors, along that portion of the route from "the present terminus of operation at Oteen and the intersection of Lower Grassy Branch Road with U.S. Highway 70, in either direction."

8. From Pack Square in Asheville, N.C., south along Biltmore Avenue to Biltmore, N.C., to old Fairview Road (old State Highway No. 20) to the junction of Highway 74 and return over the same route.

9. From the intersection of Merchant Street with Fairview Road, Biltmore, N.C., thence along Merchant Street to Raleigh Road; thence over Raleigh Road to Onteora Boulevard; thence up to Onteora Boulevard to Wilmington Street; thence over Wilmington Street to Oakley Road; thence over Oakley Road to Hilldale; thence over Hilldale to the intersection of Hilldale Street with Fairview Road and return.

10. Between Hendersonville, N.C. and Brevard, N.C., over U.S. Highway 64.

DOCKET NO. B-294

Asheville Transit Authority
Asheville, North Carolina Certificate No. B-102

EXHIBIT B (1) Transportation of passengers over the streets of the City of Asheville, subject to the right of the municipal authorities of Asheville to designate such schedules, route, stops and such other necessary police regulations as it may deem necessary to promote safety of operation and to relieve the congestion on the streets.

EXHIBIT B (2) Over such streets and highways outside the city limits and within one mile thereof as may be approved by the Commission and by the City of Asheville.

DOCKET NO. B-128, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Lease of contract carrier operating rights) ORDER APPROVING
by Floyd Hill, as lessor, to John T.) SUPPLEMENTARY
Dillahunt, as lessee) AGREEMENT

By order dated July 15, 1963, the Commission approved the lease of a 1954 Chevrolet bus and the operating rights described in a lease agreement between Floyd Hill, as lessor, and John T. Dillahunt, as lessee, for the period July 15, 1963, until July 15, 1964. Said lease agreement contains a provision which permits an extension of the term of the lease, at the option of the lessee. By order dated July 10, 1964, said lease agreement was extended until July 15, 1969.

It now appears, from an application filed with the Commission on July 2, 1969, that the parties have entered into a supplementary agreement, extending the term of the lease for another period of five (5) years. Upon consideration thereof, the Commission is of the opinion, and finds that said supplementary agreement should be approved.

IT IS, THEREFORE, ORDERED

That the supplementary agreement extending the term of the lease agreement dated June 28, 1963, between Floyd Hill, as lessor, and John T. Dillahunt, as lessee, be, and the same is, hereby approved, and that John T. Dillahunt be, and he is, hereby authorized to continue operating under the terms thereof, in the transportation of passengers within the

territory and between the points particularly described and limited in Exhibit B, attached hereto, until July 15, 1974.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

John T. Dillahunt
Route 2, Box 674
New Bern, North Carolina

EXHIBIT B - To operate as Lessee of Floyd Hill, Route 3, Box 783, New Bern, North Carolina, in the transportation of passengers under individual written contracts with the particular passengers over the following routes:

1. BETWEEN: New Bern, N.C.
AND: Cherry Point, N.C.
VIA: U.S. Highway 70.
OVER: U.S. Highway 70.

2. BETWEEN: New Bern, N.C.
AND: Trenton, N.C.
VIA: U.S. Highway 17 and N.C. Highway 12.
OVER: U.S. Highway 17 and N.C. Highway 12.

RESTRICTIONS: New Bern to Cherry Point; to operate five (5) days per week - Saturdays and Sundays excluded. New Bern to Trenton; to operate five (5) nights per week - Saturdays and Sundays excluded, the passengers to be students attending a Government school at Trenton.

CHARTER AUTHORITY:

To originate charter trips in Beaufort County, south of Pamlico River, in the Town of Bayboro in Pamlico County, in the City of New Bern and Town of James City and at the Negro Schools in Vanceboro and Fort Barnwell in Craven County, in the Town of Trenton in Jones County, and in the Cities of Morehead City and Beaufort in Carteret County, and at no other points, with the right to transport such charter parties from point of origin to all points in the State and return to point of origin.

DOCKET NO. B-69, SUB 102

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Franchise lease agreement between Queen City Coach Company and Roy Lee Huneycutt, d/b/a Power City Bus Company, Route 3, Box 321, Albemarle, North Carolina) ORDER CANCELLING LEASE AGREEMENT

Upon consideration of the record in the above entitled matter and of a letter from Queen City Coach Company advising the Commission that captioned franchise lease agreement was cancelled effective May 1, 1969, by reason of "the failure of Mr. Huneycutt to live up to the terms and conditions of same"; and good cause appearing therefor,

IT IS ORDERED:

That the franchise lease agreement made and entered into on January 31, 1968, by and between Queen City Coach Company, as lessor, and Roy Lee Huneycutt, d/b/a Power City Bus Company, as lessee, be, and the same is, hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. B-82, SUB 13

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Silver Fox Lines - Petition to discontinue service between Yanceyville, North Carolina, and Danville, Virginia, except on Saturdays) RECOMMENDED ORDER

HEARD IN: The Library of the Commission, Raleigh, North Carolina, on June 17, 1969, at 9:30 A.M.

BEFORE: E. A. Hughes, Jr., Examiner

APPEARANCES:

For the Petitioner:

Lindsay F. Moore
Silver Fox Lines
740 West Broad Street
High Point, North Carolina

No Protestants

HUGHES, EXAMINER: By petition filed with the Commission on May 19, 1969, Silver Fox Lines (Petitioner) of High Point, North Carolina, seeks permission to discontinue daily service between Yanceyville, North Carolina, and Danville, Virginia, and to operate said service on Saturdays only. The petition was treated under this Commission's Rule R2-47 and set for public hearing. Petitioner was required to post notice to the public, of the proposed curtailment of service and the time and place of hearing, in buses serving the involved route and in bus stations and other prominent places along said route. The notice of hearing contained a provision that if no protest was received prior to five (5) days before the hearing date, the Commission might grant the petition without formal hearing.

Within apt time, the Commission received a letter from Mrs. Anna Rose, Star Route 2, Yanceyville, North Carolina, opposing the proposed reduction of service. Mrs. Rose's letter was signed by some fifty (50) other persons whose addresses were not given. Mrs. Rose was advised of the scheduled hearing and of the opportunity for she and others who had signed her letter, to appear and present evidence for the consideration of the Commission. No one appeared in opposition thereto.

Petitioner was represented by its manager and principal stockholder, Mr. Lindsay F. Moore, who presented testimony and evidence intended to show that public convenience and necessity no longer requires the service as presently rendered and that operations sought to be discontinued are unreasonably burdensome financially upon Petitioner's other operations.

The competent, material, and substantial evidence adduced justifies the following

FINDINGS OF FACT

(1) Petitioner is a duly existing Virginia 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 Common Carrier Certificate No. B-82, heretofore issued to Petitioner by the North Carolina Utilities Commission. The specific authority involved in this petition is that portion of Petitioner's intrastate operating rights between Yanceyville, North Carolina, and the North Carolina-Virginia State line, leading to Danville, Virginia.

(2) The operation is primarily for the transportation of industrial workers from Yanceyville, North Carolina, to and from their places of employment at mills in Danville, Virginia, and during the month of May, 1969, excluding Saturdays, an average of about twenty-seven (27) passengers rode the bus per round trip. For this same period, including Saturdays, average daily revenue produced on the bus was $27.12. Based on daily average revenues during the

month of May, the present operation produces $183.00 weekly. When all reasonable, legitimate and direct operating expenses are deducted from this revenue, a weekly operating loss results. Petitioner's average revenue per mile for the month of May was seventeen cents (17¢), while its average per mile operating expense is about thirty-five cents (35¢).

(3) Average passengers and revenue show that the public convenience and necessity does not in reasonableness and justice require Petitioner to continue offering daily service over its intrastate route between Yanceyville and the North Carolina-Virginia State line, leading to Danville, Virginia. To require Petitioner to continue this service other than on Saturdays would tend to jeopardize the entire operation.

CONCLUSIONS

Almost one hundred per cent (100%) of the passengers transported by Petitioner move between the States of North Carolina and Virginia, which technically, to say the least, would seem to place the matter under the jurisdiction of the Interstate Commerce Commission. While not officially relinquishing jurisdiction, however, the Interstate Commerce Commission has always, more or less, left control of bus time schedules to the respective State Commissions. Be that as it may, the major portion of the route lies within the State of North Carolina and Petitioner operates over said intrastate portion by virtue of authority heretofore issued to Petitioner by the North Carolina Utilities Commission.

The volume of passenger traffic and the revenue received therefrom both intrastate and interstate are not sufficient to justify requiring Silver Fox Lines to continue to operate between Yanceyville, North Carolina, and Danville, Virginia, except on Saturdays. The Hearing Examiner is of the opinion that to require Petitioner to continue to sustain operating losses of the magnitude which the evidence shows that it is experiencing, would jeopardize the financial and operational stability of the company and concludes that said petition should be granted.

IT IS, THEREFORE, ORDERED That effective fifteen (15) days from the date this order becomes final, Silver Fox Lines, be, and it is, hereby allowed to discontinue its operation between Yanceyville, North Carolina, and the North Carolina-Virginia State line, leading to Danville, Virginia, except on Saturdays.

IT IS FURTHER ORDERED That the change of service herein authorized be reflected in a revised time table which Petitioner shall publish and file with the Commission pursuant to Rule R2-59.

IT IS FURTHER ORDERED That the action of the Commission herein shall not prejudice any application which hereafter may be filed with the Commission by another person for

authority to provide the service which is being discontinued by Petitioner.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-556, SUB 3
DOCKET NO. 4066-W

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter cf
Failure of Bracey's Transfer, Inc., to Provide Active Service to the Public for the Transportation of Commodities in its Certificate of Public Convenience and Necessity Other Than Dry Fertilizer ORDER TO SHOW CAUSE WHY CERTIFICATE SHOULD NOT BE CANCELLED FOR DORMANCY AS TO COMMODITIES OTHER THAN DRY FERTILIZER

) ORDER

Protest of Bracey's Transfer, Inc., Rowland, North Carolina; and Protest of C. W. Allen and J. F. Allen, d/b/a Allen Brothers Transfer Company, Kernersville, North Carolina, tc Administrative Ruling Clarifying the Term "Fertilizer and Fertilizer Materials" in General Order No. 4066-W ORDER FOR BRACEY'S TRANSFER, INC., TO SHOW CAUSE WHY ITS LIQUID FERTILIZER AUTHORITY SHOULD NOT BE CANCELLED

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina on November 18, 1969, at 10 A.M.

BEFORE: Chairman Harry T. Westcott, Commissioners John W. McDevitt and Clawson L. Williams, Jr., Presiding

APPEARANCES:

For the Commission Staff:

Larry G. Ford
Associate Commissicn Attorney

For the Respondent:

R. W. Bracey
Bracey's Transfer, Inc.
Box #1, Rowland, North Carolina

WILLIAMS, COMMISSIONER: Pursuant to Show Cause Orders issued by the Commission cn November 4, 1969 in Docket No. T-556, Sub 3 and in Docket No. 4066-W, the Commission heard, at the time and place shown in the caption, these matters as to why Bracey's Transfer, Inc. (hereinafter Respondent) should not have its liquid fertilizer and liquid fertilizer materials authority cancelled and to show cause why its Certificate No. C-445 should not be cancelled as to all commodities, except dry fertilizer, for dormancy.

Said Show Cause Orders cf November 4, 1969, were duly served on the Respondent on November 7, 1969. Respondent

was present at the hearing by and through its President, Mr. R. W. Bracey, who testified at the hearing.

From the evidence adduced at the hearing and the Commission's official records, the Commission makes the following

FINDINGS OF FACT

1. Bracey's Transfer, Inc., the Respondent is a corporation duly organized and existing under the laws of the State of North Carolina and holds irregular route common carrier authority to transport certain commodities between certain points and places in North Carolina, which authority was granted by this Commission and is more particularly set forth in Respondent's Certificate No. C-445, copy of which is hereto attached and marked Exhibit B and is incorporated herein by reference.

2. That by General Order issued by the Commission on August 4, 1969, in Docket No. 4066-W, to which General Order reference is hereby made, the Commission found that the Respondent had for several years participated in the transportation of liquid fertilizer and liquid fertilizer materials as well as dry fertilizer and dry fertilizer materials. That Respondent had participated in and was governed by the Dangerous Articles Tariff for a period of many months; that Respondent had equipment and materials necessary for the transportation of liquid fertilizer and liquid fertilizer materials, and had filed tariffs to reflect its charges for such transportation; and that Respondent had a vested interest in the continued right to haul liquid fertilizer and liquid fertilizer materials.

3. That pursuant to said Findings in said Order of August 4, 1969 in Docket No. 4066-W, the Commission concluded that Respondent would be unlawfully prejudiced by the Administrative Ruling in that docket to the effect that authority to haul Group 8, fertilizer and fertilizer materials, does not include the right to haul liquid fertilizer and liquid fertilizer materials. The Commission concluded and ordered that Respondent's Certificate should be amended to include liquid fertilizer and liquid fertilizer materials.

4. That the Findings, Conclusions and Order in Docket No. 4066-W referred to in Paragraphs 2 and 3 above were based upon false and erroneous testimony given by Respondent's President, Mr. R. W. Bracey, at the hearing in Docket No. 4066-W held on July 24, 1969, which testimony the said R. W. Bracey admitted as being false and erroneous at the hearing in these dockets held on November 18, 1969.

5. That on October 1, 1969, the Commission Staff conducted an investigation into the operation of Bracey's Transfer, Inc. and reported its Findings to the Commission.

6. Pursuant to said report, the Commission issued the Show Cause Orders in this docket. The Findings of the Commission Staff were presented in evidence at the hearing. Said investigation revealed and the Commission finds that the books and records of Respondent fail to disclose any transportation of any commodities for compensation under its Certificate other than dry fertilizer during 1967, 1968 and through October 1, 1969. Said records further do not show any public transportation for compensation of liquid fertilizer or liquid fertilizer materials for said period of time and Respondent does not have on file with the Commission complete and up-to-date tariffs relating to the transportation of such commodities.

7. That Certificate No. C-445 is dormant except for the transportation of dry fertilizer and should be cancelled under the provisions of G.S. 62-112(c) for failure to perform the services authorized thereunder. The transportation of dry fertilizer and dry fertilizer materials in truck load is exempt from the regulation of this Commission by Administrative Ruling of the Commission.

8. That the authority granted to Respondent to transport liquid fertilizer and liquid fertilizer materials in Docket No. 4066-W should be revoked and cancelled for that said authority was granted on the basis of false and erroneous representations made by the Respondent through its President and upon which the Commission relied in granting such authority. The transportation of the following commodities contained in Item 1 of Exhibit B are exempt by statute from the Commission's regulation:

Leaf tobacco from farms to markets

Gravel and sand, in bulk

The transportation of the following commodities contained in Respondent's authority are exempt from regulation by Administrative Ruling of the Commission when hauled subject to the conditions set out in parenthesis by each commodity:

Fertilizer and fertilizer materials (in truck loads)

Peanuts (in truck loads from the farm or place of original storage to the milling or processing plant)

Potatoes, vegetables, fruits and melons (when such commodities are native fresh vegetables, fruits, etc., being transported from warehouses, packing sheds or grading stations to wholesale or retail distribution markets)

Corn, wheat and oats (in truck loads and not including seed grain)

Cotton Seed (in truck loads from the gin to the milling or processing plant)

Brick, cement and cinder building blocks and drain tile (in truck loads)

Lumber (in truck loads)

All other commodities shown under Item 1 of Respondent's Certificate, to wit: cotton seed meal, feeds, plywood and veneer panels, furniture squares, lime, cement and cotton bagging and ties are regulated commodities which have not been transported by the Respondent within the past two and one-half years and as to such commodities Respondent's authority is dormant.

As to Item 2 of Respondent's authority which authorizes the transportation of household goods and related commodities, the evidence reveals the only activity of Respondent in this field has been the occasional rental of its truck to owners of household goods on a lease basis for moving of such goods from one dwelling to another, all packing, loading and unloading being done by the lessee of such vehicle. Such transportation would appear to fall within the provisions of G.S. 62-260(e) and as such would be exempt. G.S. 62-260(e) contains the following provision:

> "Nothing in this chapter shall be construed to prohibit or regulate the transportation of household effects of families from one residence to another by persons who do not hold themselves out as being, and are not generally engaged in the business of transporting such property for compensation."

In the light of this provision, the Commission finds that as to any transportation under Item 2 of Respondent's Certificate, which is subject to regulation, said certificate is dormant and should be cancelled.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

The Commission Staff investigation reveals, and Respondent's President and sole stockholder admits that the authority granted to the Respondent in Docket No. 4066-W to transport liquid fertilizer and liquid fertilizer materials was granted by the Commission on the basis of false and erroneous representation made by the Respondent and that in fact there was no lawful basis for granting such authority, and had the true facts been before the Commission in that Docket said authority would not have been granted and, therefore, said authority should be revoked and cancelled.

It appears that a majority of the commodities authorized to be transported by the Respondent by its Certificate No. C-445 are exempt from regulation and at the request of the Respondent an exemption certificate should be granted regarding these commodities and the Commission concludes

that this Order should act as an exemption certificate as to those commodities.

Regarding the commodities authorized by said certificate which are subject to regulation by the Commission, it clearly appears that Respondent's Certificate is dormant and should be cancelled.

The Commission makes note of the fact that Respondent's President, Mr. R. W. Bracey, gave false and erroneous testimony at the hearing in Docket No. 4066-W on July 24, 1969. At the hearing in these dockets, Mr. Bracey admitted such testimony was erroneous and stated that it was given through mistake, misunderstanding and inadvertence. The Commission makes no determination herein as to whether or not Mr. Bracey deliberately gave false testimony, but, in any event, such testimony cannot be allowed to stand in support of the Order issued on August 4, 1969 in Docket 4066-W as it relates to the granting of liquid fertilizer and liquid fertilizer materials authority to Bracey's Transfer, Inc.

IT IS, THEREFORE, ORDERED:

1. That the authority issued to Bracey's Transfer, Inc. by Order, dated August 4, 1969 in Docket 4066-W to transport liquid fertilizer and liquid fertilizer materials be and the same is hereby cancelled.

2. That Respondent's Certificate No. C-445 is dormant and the public convenience and necessity is no longer served by such certificate and said certificate is hereby cancelled.

3. That this Order shall constitute a Certificate of Exemption for the Respondent for the transportation of leaf tobacco from farms to markets; gravel and sand in bulk; dry fertilizer and dry fertilizer materials (in truck loads); peanuts (in truck loads from the farm or place of original storage to the milling or processing plant); Potatoes, vegetables, fruits and melons (when such commodities are native fresh vegetables, fruits, etc., being transported from warehouses, packing sheds or grading stations to wholesale or retail distribution markets); Corn, wheat and oats (in truck loads and not including seed grain); Cotton seed (in truck loads from the gin to the milling or processing plant); Brick, cement and cinder building blocks and drain tile (in truck loads); and lumber (in truck loads).

IT IS FURTHER ORDERED That Respondent shall comply with all laws, rules and regulations relating to exempt motor carriers transporting property for hire and shall make such filings with the Commission as are required by such laws, rules and regulations.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of December, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Duputy Clerk

(SEAL)

DOCKET NO. T-556
SUB 2

Bracey's Transfer, Inc.
Irregular Route Common Carrier
Rowland, North Carolina

EXHIBIT B

(1) Transportation, in truckloads, of cotton in bales; leaf tobacco from farms to markets; fertilizer and fertilizer materials, liquid or dry; peanuts, potatoes, corn, wheat, oats, hay, cotton seed, cottonseed meal, feeds, vegetables, fruits, melons, bricks, cement and cinder building blocks, drain tile, lumber, plywood and veneer panels, furniture squares, gravel, lime, cement, sand, and cotton bagging and ties;

(a) To and from points and places within a radius of fifty miles of Rowland.

(b) From said area to points and places in North Carolina bounded on the west by U.S. Highway 29, on the north by U.S. Highway 70, on the east by the Atlantic Ocean, and on the south by the South Carolina State Line.

(c) From said destination territory to points and places within a radius of fifty miles of Rowland.

(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 manufacturing products hauled to or from such manufacturing plants.

REFERENCES: Order dated March 4, 1948, in Docket No. T-556. Order dated September 8, 1952, in Docket No. T-556, Sub 1. G.S. 62-121.11(4)(c) - Household Goods. Order dated October 29, 1959, in Docket No. T-556, Sub 2. Order dated August 4, 1969 - Docket No. 4066-W

DOCKET NO. T-640, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of B. & L. Trucking Co., Inc., of)
Albemarle, N. C., Route 4, Albemarle, North Carolina) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on October 29, 1969, at 10:00 A.M.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten (Presiding)

APPEARANCES:

For the Applicant:

Kenneth Wooten, Jr.
Bailey, Dixon, Wooten & McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602

Richard Lane Brown, III
Brown, Brown & Brown
Attorneys at Law
P. O. Box 818, Albemarle, North Carolina

For the Protestants:

Thomas S. Harrington
Attorney at Law
P. O. Box 535, Eden, North Carolina
For: Morgan Drive Away, Inc.
Transit Homes, Inc.

Charles B. Morris, Jr.
Jordan, Morris & Hoke
Attorneys at Law

914 First Citizens Bank Building
Raleigh, North Carolina
For: National Trailer Convoy, Inc.

WOOTEN, COMMISSIONER: By application filed with the Commission on August 25, 1969, B. & L. Trucking Co., Inc. of Albemarle, N. C., Route 4, Albemarle, North Carolina, (Applicant) seeks authority as an irregular route common carrier to engage in the transportation of Group 21, "Other Specific Commodities", (a) Mobile Home House Trailers, (b) Poultry, dressed, fresh, frozen, live, picked and stuffed, and (c) All exempted commodities now exempt by the North Carolina Utilities Commission and Interstate Commerce Commission, within a territory described in the application as to and from all points and places within the State of North Carolina. 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 September 15, 1969.

Protests were filed in the matter by Morgan Drive Away, Inc., on October 2, 1969; by National Trailer Convoy, Inc., on October 6, 1969; by Transit Homes, Inc., on October 14, 1969; and by Donald Strand Hudson on October 21, 1969.

Upon the call of this matter for hearing, the applicant and all protestants were present and represented by counsel with the exception of Protestant Donald Strand Hudson, who was neither present in person nor represented by counsel. At the start of the hearing, the applicant moved that the protest of Donald Strand Hudson be dismissed, disallowed and struck from the record in view of the fact that the same was not timely nor properly filed. For the reason that said protest was not verified and the protestant was not present nor represented by counsel, the motion to dismiss said protest was allowed by the Commission, with the understanding that in the event the protestant should appear at the hearing, he would be permitted to testify upon request. Said protestant did not appear, did not testify, and did not offer any evidence, and his protest was not considered by the Commission in its deliberations on this matter.

The applicant offered nine witnesses, the first of whom was Mr. Jack Lowder, who resides in Stanly County, North Carolina, and who is President of B. & L. Trucking Co., Inc. of Albemarle, N. C. This witness testified regarding the financial ability of the applicant to perform the transportation services for which rights are here sought and also testified regarding the equipment and other physical capabilities of the applicant. He further testified that the applicant had been in the trucking business as a proprietorship or corporation since the early 1930's; that the company received its initial certificate upon enactment of the North Carolina Truck Act; that the applicant, in addition to its trucking operation, owned and operated one or more mobile home trailer parks in the State of South

Carolina; that he had received numerous calls from members of the public requesting his company to move mobile home trailers; that he advised such callers of his company's lack of authority to transport such trailers, and advised them to contact one or more authorized common carriers; that he had experienced difficulty on one occasion in having two mobile home trailers moved from Mecklenburg County, North Carolina, to Stanly County, North Carolina; that he had also incurred difficulty in having the same two trailers moved from Stanly County, North Carolina, to the State of South Carolina for location in one of their mobile home parks in said State; that the mobile home business in Stanly County was a fast growing business in that area; that his company was ready, willing and able to perform all of the service for which a certificate is here sought, both financially and physically, and by way of experience; that his company owned one tractor designed for the movement of mobile homes and would purchase additional such units if the rights were granted; that his company is mainly engaged in the transportation of dressed poultry in interstate commerce for Allman Brothers Poultry, Inc., of Albemarle, North Carolina, and for Southeastern Poultry Company in Charlotte, North Carolina, as an exempt carrier of this interstate exempt commodity; that his company needed additional rights to transport such poultry in intrastate commerce in order to properly and adequately serve its customers above referred to; that on many occasions their customers had shipments in intrastate and interstate commerce which could be carried on the same truck but for the fact that his company did not have the rights to haul such commodities in intrastate commerce; that his company also holds additional rights under its Certificate No. C-499 to transport brick, fertilizer, sand, stone, heavy commodities, and agricultural products; and that the granting of this application would allow his company to make better and more effective utilization of its equipment, both in inter and intrastate commerce, and render better service to its existing customers.

Mr. A. R. Lowder, Secretary and Treasurer of the applicant corporation, also testified for the applicant, and his testimony, in sum and substance, was the same as the testimony offered by the President of the applicant corporation, Jack Lowder, and added that the granting of the authority would be a big help to the applicant corporation and to all of its customers.

The applicant offered Mr. Ellis Smith, who is an insurance agent located in Stanly County, North Carolina, and who also does some part time selling for Bill Furr Realty and Mobile Home Sales Company which is located in said county; that he has been associated with Furr Mobile Home Sales for the past three years; that he does not recall the brand name of equipment sold by Furr Mobile Homes; that he knows that there have been some difficulties incurred in the movement of new trailers in and around Stanly County; that his company has secured the services of common carrier movers out of Monroe, Salisbury, and Gastonia; that his company's

sales area includes Stanly and adjoining counties and a radius of approximately fifty miles; that he feels that a local firm in Stanly County could better serve the public and that there are no local certificated carriers for the movement of mobile homes in Stanly County; that his company has not been solicited by any common carrier; that his company has received a number of calls from people requesting them to move mobile homes but that they were unable to render the service because they did not have the necessary certificate; and that the applicant here is a good carrier, a good corporate citizen, and, in his opinion, is suited to render the service applied for.

Mr. William M. Hill, of Stanly County, North Carolina, who is employed as an automobile salesman, and who also works as a part time, fill-in, salesman for Select Mobile Homes located in Stanly County, testified that his company secured the service of common carriers out of Charlotte, Salisbury, High Point, and Greensboro, in order to move trailers for them on occasions; that his company owned their own hauling equipment and had two units which they used to move their sales; that his company had received many calls from individuals desiring a trailer to be moved, whom they referred to common carriers with certificates; and that he feels that a local certificated carrier could better serve the public.

The applicant offered the testimony of a mobile home park owner, Mr. Z. D. Dennis, of Stanly County, North Carolina, who testified that there are no local mobile home movers certificated in Stanly County; that the growth of the mobile home business in that county had doubled in the three years that he had been in the mobile home park business; that he had had three occasions since he has been in business to be involved in the movement of mobile home trailers and that on two of those occasions the common carriers rendered perfect service, and on one occasion they were a little slow; that he considers three days a reasonable time in which to move a mobile home; that, in his opinion, it would be more convenient to have a certificated carrier located within the county; that the population of Stanly County is thirty-two thousand and the City of Albemarle is fourteen thousand, and that he estimates that there are two hundred mobile home trailers located in Stanly County; and that the applicant is a good carrier and a fit organization to move mobile homes.

Mr. Clifton Herring of Stanly County, North Carolina, testified for the applicant to the effect that he lives in a trailer park in Stanly County which has fourteen lots; that he has lived in a house trailer two and one-half years; that he has lived in mobile home parks in South Carolina, Georgia, and in Stanly County; that he moved to Stanly County approximately one year ago; that at this time, he has purchased a piece of property and needs to move his mobile home; that he did not know anyone who could move mobile homes but felt anyone could do so; that he contacted two mobile home dealers and they advised him that they could not

haul the same in intrastate traffic; that it would be a convenience and a benefit to their business operation if the applicant could haul both inter and intrastate shipments of poultry; that the applicant is fit, willing and able to perform the service for which rights are here applied for in so far as they relate to the shipment of poultry; that they request and recommend the approval of the applicant's application in connection therewith; and that they anticipate a need for the movement by the applicant of all phases of movement of poultry in all categories.

The applicant introduced financial statements showing its financial ability and also a list of its physical equipment used and useful in its trucking operation.

In this case all protestants filed protests, protesting the granting of intrastate common carrier irregular route authority for the transportation of mobile home house trailers to and from all points and places within the State of North Carolina. There were no protests filed against the granting of the application for the transportation of poultry, dressed, fresh, frozen, live, picked and stuffed, to and from all points and places within the State of North Carolina. No protests were filed regarding the application in so far as it applied for an exemption certificate to transport all exempt commodities now exempt by the North Carolina Utilities Commission and Interstate Commerce Commission, to and from all points and places within the State of North Carolina.

Upon the conclusion of the evidence by the applicant, the protestants, and each of them, orally moved that the application be dismissed in so far as it applied for authority as an irregular route common carrier for the movement of mobile home house trailers to and from all points and places within the State of North Carolina, for the reason that the applicant had failed to show, and carry the burden of proving, that there is a public need for the proposed service in addition to that available by existing carriers. Whereupon, the Commission retired to the conference room and considered the motions of the protestants.

After carefully reviewing the evidence as presented by the applicant, in the light of the motions made by the protestants, the Commission was of the opinion that the applicant had failed to show that there is a public need for said proposed service in addition to that available by existing carriers, and that the testimony of the public witnesses failed to show the existence of such public need and such evidence did not indicate that there is not available authorized carriers to perform the service nor any evidence pertaining to the inability of the existing carriers to render the needed service. The Commission, therefore, concluded that the motion to dismiss that portion of the application referring to the movement of mobile home

transport the same; that he had also contacted the president of the applicant corporation who likewise declined service; that he did not have any objections to using a distant mobile home mover, provided he did not have to incur additional cost because of the distant location of such mover; that he was not aware of any certificated carriers until the hearing; that he intended to contact a certificated carrier to make his move now that he knows of the existence of the same; that he had not checked the yellow pages for such service; that he was now aware that several certificated carriers were listed in the local telephone "yellow pages"; that there has been a rapid growth in the mobile home business in Stanly County since he moved there last October; and that he is of the opinion that a local certificated carrier would render better service, though he is not aware of the type of service being rendered by common carriers locally.

The applicant next offered Mr. Robert M. Kelly, of Stanly County, North Carolina, who testified that he lives in a mobile home and has done so for the past three years; that he lives in a park in Stanly County which has twenty-three trailer lots; that this trailer park rents both spaces and trailers; that there is a heavy turnover of people living in mobile home parks; that in the last three years, there has been almost a one hundred per cent turnover or better, in the park in which he lives with people constantly moving in and out; that he knows of two occasions in which people left their trailers for as long as ten to twelve days before the same were moved but that he is not aware of the reasons for such delayed movements; that people had asked him on occasions regarding information about who could move mobile homes and that he had referred them to Charlotte carriers but did not know the outcome of service on those occasions; that the growth of the mobile home business in Stanly County is tremendous, with old parks being expanded and new parks being regularly established; that there are ten to twelve mobile home parks in Stanly County; that he is aware of three trailers owned by people who did not move them expeditiously but that he does not know the reasons for such delays; that he is aware of certificated carriers being located in Sanford, Greensboro, Gaston County and Mecklenburg County; and that he believes the applicant would be fit, willing and able to render the service for the movement of mobile homes in this State.

Mr. L. D. Allman, of Allman Brothers Poultry, Inc., Route 4, Albemarle, North Carolina, and Mr. B. W. Spivey, Southeastern Poultry Company, Charlotte, North Carolina, both testified for and on behalf of the applicant in this case and testified that their respective companies were in the business of processing poultry, and shipping the same to various wholesale customers throughout this part of the country; that they had many customers inside and outside of North Carolina; that the applicant here handled all of their interstate shipments of poultry in a satisfactory manner; that they had a need for the service of the applicant to

house trailers, and for a judgment of nonsuit in that connection, should be sustained and allowed.

Upon consideration of the evidence of record adduced in this proceeding, the Commission

FINDS

1. That the applicant owns the necessary equipment for the movement of poultry, dressed, fresh, frozen, live, picked and stuffed.

2. That the applicant, its officers and employees are experienced in the movement of poultry and in the use of equipment for the handling thereof for which authority is here sought.

3. That the applicant is now engaged in the movement of poultry as an exempt interstate carrier and has had experience in movement for hire.

4. That the applicant is fit, willing and financially and otherwise qualified and able to properly perform adequate service as proposed in the application for the movement of poultry, and to continue such service as long as the need therefor exists.

5. That the public convenience and necessity require the service of the applicant for the hauling of poultry as applied for, in addition to other existing authorized transportation service.

6. That the public convenience and necessity does not require the proposed service for the movement of mobile home house trailers in intrastate commerce, in addition to existing authorized transportation service.

7. That there was no evidence offered in support of the applicant's request for an exemption certificate, which request is a "broadside request", which should not be granted, unless and until the applicant presents to the Commission evidence of its intention to transport particular exempt commodities, in which event the Commission will properly consider the same.

Based upon the evidence presented in this case, the competent and pertinent records of the Commission, and the findings of fact hereinabove set out, the Commission makes the following

CONCLUSIONS

If the application is for a certificate, as in this case, the burden of proof is upon the applicant to show to the satisfaction of the Commission, among other things, that the public convenience and necessity require the proposed service in addition to existing authorized transportation

service. G.S. 62-262(e). We conclude that the applicant failed to sustain this burden of proof in so far as its application for authority to transport mobile home house trailers to and from all points and places within the State of North Carolina.

The evidence is convincing that the applicant has the desire to enter the field of transporting mobile homes in the State of North Carolina. Where the only evidence submitted in support of the application is a mere desire of the applicant to engage in intrastate operations and there is no showing that the existing transportation facilities are inadequate or that the proposed service is required to meet the transportation needs of the public in the territory considered, even though there is evidence from witnesses who would like to see this applicant afforded the rights applied for, we must conclude that the application, in so far as it relates to movement of mobile homes, should be denied.

Aside from evidence of a willingness and ability of the applicant to engage in the operation of motor vehicles as a common carrier in the movement of mobile homes, there must be an affirmative showing not only that the service is required in the convenience of the public, but that there is a necessity on the part of such public. The latter element includes a showing that the present facilities are inadequate for the transportation of mobile homes between the points involved.

The Commission further concludes that the applicant has carried the burden of proof, showing that there is a public need and that the public convenience would be served, for and by the granting of the authority requested herein for the transportation, statewide in intrastate commerce, of poultry, dressed, fresh, frozen, live, picked and stuffed.

The Commission finally concludes that the applicant's request for an exemption certificate authorizing it to transport in intrastate commerce throughout this State all commodities now exempt by the North Carolina Utilities Commission and the Interstate Commerce Commission is not properly presented. In the first place, it would appear that there is no need for any such certificate in view of the fact that the applicant already holds statewide common carrier authority for certain commodities. We also conclude that a "broadside" application for such an exemption certificate should not be granted in any case where there is a total absence of showing just what the applicant intends to transport, how and under what circumstances. We, therefore, conclude that such a request in this case is improperly presented, not supported, and is not needed by the carrier.

IT IS, THEREFORE, ORDERED:

1. That the application of B. & L. Trucking Co., Inc. of Albemarle, N. C., for a certificate of convenience and

necessity to transport mobile homes for compensation between all points and places within the State of North Carolina, be, and the same is, hereby denied and the proceeding, to that extent, is dismissed.

2. That the applicant, B. & L. Trucking Co., Inc. of Albemarle, N. C., be, and it is, hereby granted authority as an irregular route common carrier to transport poultry, dressed, fresh, frozen, live, picked and stuffed, to and from all points and places within the State of North Carolina, in accordance with Exhibit B attached hereto.

3. That the application in all other respects be, and the same is, hereby denied.

4. That operations shall begin under this authority when the applicant has filed with the North Carolina Utilities Commission tariff schedules of rates and charges and has otherwise complied with the rules and regulations of this Commission, all of which shall be done within thirty (30) days from the effective date of this order.

5. That the authorization herein shall constitute a certificate, until formal amended certificate shall have been transmitted to the applicant authorizing transportation herein set out.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of November, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-640 SUB 6

B. & L. Trucking Co., Inc. of Albemarle, N. C.
Route 4
Albemarle, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of Group 21, Poultry, dressed, fresh, frozen, live, picked and stuffed, to and from all points and places within the State of North Carolina.

DOCKET NO. T-1463

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Charles W. Bell, Hauling and Grading Company, Route 5, Box 33, Greensboro, North Carolina) RECOMMENDED ORDER

HEARD IN: The Commission's Hearing Room, Raleigh, North Carolina, on August 7, 1969, at 2:00 P.M.

BEFORE: E. A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

J. Owen Lindley, Esquire
Attorney at Law
108 Piedmont Building
Greensboro, North Carolina

For the Protestant:

Honorable H. P. Taylor, Jr.
Attorney at Law
Taylor & McLendon
Anson Professional Building
Wadesboro, North Carolina 28170
For: Moss Trucking Company, Inc.
McLeod Trucking & Rigging Company, Inc.
Superior Trucking Company, Inc.
Home Transportation Company, Inc.
W. Everette Truck Line

HUGHES, EXAMINER: By application filed with the Commission on May 26, 1969, Charles W. Bell, Hauling and Grading Company, Route 5, Box 33, Greensboro, North Carolina, seeks statewide authority as an irregular route common carrier to engage in the transportation of Group 2, Heavy Commodities; Group 9, Forest Products; Group 10, Building Materials and Group 1*, Dump Truck Operations. Notice of said application, with a description of the rights sought, along with the time and place of the hearing, was published in the Commission's Calendar of Hearings issued June 3, 1969. Protests thereto were timely filed by Moss Trucking Company, Inc., Charlotte, North Carolina, McLeod Trucking & Rigging Company, Inc., Charlotte, North Carolina, Superior Trucking Company, Inc., Atlanta, Georgia and Home Transportation Company, Inc., Marietta, Georgia. W. Everette Truck Line, Washington, North Carolina, for good cause shown, was also granted leave to intervene and allowed to become a party-protestant without objection from Applicant.

When the case was called on the original hearing date, July 17, 1969, the matter, by mutual agreement of parties and for good cause shown, was continued by the Commission until August 7, 1969.

Testimony of Applicant, in summary, tends to show that his primary business is that of heavy equipment contractor involved in earth moving; that he owns two (2) trucks which were initially acquired by him for the hauling of his own equipment, consisting of bulldozers and other such heavy equipment used in his contruction and earth moving business; that the movement of his own equipment does not keep the trucks busy all the time and that he has discussed the application with a number of officials of construction companies; that he has a net worth of $37,000.00 and has had some experience in the private transportation of certain types of heavy commodities.

Testifying for Applicant, Mr. Fred L. Heath, Sales Manager for E. F. Craven Company, stated that he has known Applicant for fifteen (15) years; that he is familiar with Applicant's equipment and feels that there is a need for a heavy equipment hauler of a local nature, but that to his knowledge, his company has never been refused service by existing carriers and that he has no quarrel with the present service available and feels that existing service is adequate. In addition, Mr. John H. Dixon, another representative of E. F. Craven Company, testified, among other things, that although he has met Applicant, he has never had any dealings with him with regard to transportation; that he knows very little about Applicant's equipment; and that as far as he knows, existing heavy commodity carriers have furnished satisfactory service to his company.

Protestants offered the testimony of four (4) witnesses, all of which was designed and intended to show that the service offered by existing carriers is entirely adequate and that public convenience and necessity does not require the service proposed by Applicant.

At the close of the testimony, parties gave notice to the Hearing Examiner that they would file proposed findings of fact, conclusions of law, and briefs in the cause. The time within which such briefs might be filed was fixed at thirty (30) days from the date on which the transcript of testimony was mailed. The transcript of testimony was mailed to parties on September 9, 1969, and briefs were due on or before October 9, 1969. The time so fixed for filing briefs having expired and only the Protestants' brief having been filed within the time so fixed and no indication having been received from Applicant in the form of a motion or otherwise that the time so fixed be extended, the Hearing Examiner can only find that Applicant has elected not to file a brief and the Recommended Order herein will be entered.

Upon consideration of the application, the testimony of record, the brief of Protestants 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 service proposed by Applicant in addition to existing authorized transportation service.

CONCLUSIONS

This Commission's motor carrier Rule R2-15(a) reads as follows:

(a) If the application is for a certificate to operate as a common carrier, the applicant shall establish by proof (i) that a public demand and need exists for the proposed service in addition to existing authorized service,* (ii) that the applicant is fit, willing and able to properly perform the proposed service, and (iii) that the applicant is solvent and financially able to furnish adequate service on a continuing basis. Uncorroborated testimony of the applicant is generally insufficient to establish public demand and need.

* Emphasis added.

Although Applicant produced two (2) public witnesses, both representing the same shipper, their testimony is entirely void of any indication of a need for the service proposed by Applicant. To the contrary, the testimony of Applicant's witnesses, except for a reference to the possible need for such service of a local nature, seems to support the evidence presented by Protestants that the service offered by existing carriers is adequate and that public convenience and necessity does not require the service proposed by Applicant.

Other than the self-serving declarations of the Applicant, no testimony or evidence was offered regarding the existence of a real need for any portion of the authority sought including that which relates to Group 9, Forest Products, Group 10, Building Materials and Group 14, Dump Truck Operations.

The Hearing Examiner concludes that Applicant has failed to establish any public demand and need whatever for the proposed service and that said application should be denied.

IT IS, THEREFORE, ORDERED That the application of Charles W. Bell, Hauling and Grading Company, Route 5, Box 33, Greensboro, North Carolina, in this docket, be, and the same

is, hereby denied in its entirety and this proceeding dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of October, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-681, SUB 29

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition by Helms Motor Express, Inc., to suspend for an indefinite period service to certain points and places it is authorized to serve as a regular route carrier of General Commodities) ORDER DENYING PETITION

HEARD IN: The Hearing Room of the Commission, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on April 14, 1969

BEFORE: Chairman H. T. Westcott, Presiding, Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Respondents:

Kenneth Wooten, Jr. and
J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
Insurance Building
Raleigh, North Carolina

For the Using and Consuming Public:

George A. Goodwyn
Assistant Attorney General
N. C. Department of Justice
Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Ruffin Building
Raleigh, North Carolina

BY THE COMMISSION: By order dated February 17, 1969, the Commission, for good cause shown, approved a petition of

Helms Motor Express, Inc. (Helms) for authority to suspend operations to some two hundred and twelve (212) points on its regular routes, for a period of sixty (60) days.

By petition filed with the Commission on April 3, 1969, Helms seeks to extend said authorized suspension of service for an indefinite period. Said petition was scheduled for argument and hearing before the Commission on April 14, 1969. All parties were present and represented by counsel at the hearing.

At the opening of the proceeding, the Assistant Attorney General, appearing for the using and consuming public, withdrew from the case.

Pending consideration of the petition and prior to its determination, interim authority to extend the suspension until further order of the Commission was granted by the Commission in its order dated April 24, 1969.

Evidence in the form of testimony of Helms' officials was offered and the merits of the matter were argued by counsel. Said evidence is a matter of record and it is not considered essential to recite it here.

FINDINGS OF FACT

1. That Petitioner, Helms Motor Express, Inc., is a regular route common carrier of general commodities and holds substantial operating rights for intrastate and interstate transportation of such commodities within the State of North Carolina.

2. That a large number of points to which an indefinite suspension of service is requested have no regular route truck service available to them other than that offered by Helms by virtue of its certificate of authority from this Commission.

3. That Rule R2-34 as promulgated and adopted by this Commission provides as follows:

> "Rule R2-34. Motor freight carriers obligated. - When any regulated common carrier has been authorized by this Commission to transport any given commodity, or group of commodities, such carrier is thereafter obligated to transport said commodity, or group of commodities, as authorized. Refusal of transportation offered or any discrimination or undue preference in the movement thereof is prohibited."

4. That the indefinite suspension of service requested by Helms would deprive a substantial number of communities within the State of North Carolina of any regular route general commodity freight service for an indefinite period of time, and would result in discrimination against such

communities in violation of the law and the rules of this Commission.

5. That the public interest requires the reinstatement of service to all points within the certificate heretofore issued to Helms and that the petition for an indefinite suspension of service should be denied.

CONCLUSIONS

Upon consideration of the petition, the evidence adduced, the able argument of counsel and the foregoing findings of fact, the Commission concludes that any further extension of the suspension of service will be contrary to the public interest, and that said petition should be denied.

IT IS, THEREFORE, ORDERED That the petition of Helms Motor Express, Inc., for an indefinite extension of the suspension of service to certain points on its regular routes, as described by the Commission in its order of February 17, 1969, be, and the same is, hereby denied, and that service to all of said points be reinstated, effective June 15, 1969.

IT IS FURTHER ORDERED That Helms Motor Express, Inc., publish tariffs on one (1) day's notice showing that the suspension of service authorized by the Commission in its order of February 17, 1969, has been lifted and that service will be reinstated to the points involved in the suspension, effective June 15, 1969.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of May, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1437

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Luby Naylor, d/b/a Naylor Mobile Homes, 404 East Cumberland Street, Dunn, North Carolina) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on April 18, 1969, at 2:00 P.M.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten (Presiding)

APPEARANCES:

For the Applicant:

F. Kent Burns
Boyce, Burns & Smith
Attorneys at Law
P. O. Box 1406, Raleigh, North Carolina

For the Protestants:

Earl W. Vaughn
Vaughn & Harrington
Attorneys at Law
109 W. Washington Street
Eden, North Carolina
For: Morgan Drive Away, Inc.

Lowry M. Betts
Pittman, Staton & Betts
Attorneys at Law
P. O. Box 1009, Sanford, North Carolina
For: Boyd Q. Douglas, t/a Dreamland Mobile Home Park

WOOTEN, COMMISSIONER: By application filed with the Commission on August 23, 1968, 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, Johnston and Sampson 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 September 10, 1968.

Protests to the granting of the application were timely filed by Morgan Drive Away, Inc., 2800 West Lexington Avenue, Elkhart, Indiana, and Boyd Q. Douglas, t/a Dreamland Mobile Home Park, Route 8, Sanford, North Carolina.

All parties were present and represented by counsel.

Luby Naylor, who owns Naylor Mobile Homes and engages in the buying and selling of mobile homes and the operation of a mobile home park in Dunn, North Carolina, and an additional mobile home park in Johnston County, testified that he needs authority to transport mobile homes for other owners within the area sought. The authority, if granted, would enable him to render broader service than that of a private carrier in which he is partly engaged. His testimony, in part, discloses that he has received, from time to time, inquiries from persons who desire to move mobile homes; that he informs the inquirers that he does not have the authority to render this service; that he does not recommend other authorized carriers, in that he does not know what authorized carrier service is available in any of

the counties sought to be served; that in the past two years he has not made any effort to determine what, if any, common carrier service is available in the area affected; that both of his mobile home trailer parks are small; that he has only one (1) trailer parked at his Johnston County trailer park and eleven (11) at his Harnett County trailer park; that he does not know whether or not there is listed common carrier service in the telephone yellow pages in the communities affected; that he is aware that there is service available from Morgan Drive Away, Inc., and by Boyd Q. Douglas, t/a Dreamland Mobile Home Park, Route 8, Sanford, North Carolina; that he does not know how effective the service of these two carriers is in the area here applied for; that this is the third application for substantially the same rights which he has heretofore filed with this Commission which has twice previously been denied; that on one occasion two years ago, he received service from Morgan Drive Away, Inc., which he did not find to be satisfactory and that he has not used that service since that time; that he does not offer his inquirers any advice as to where to obtain common carrier service of the type here applied for; that as a matter of fact he would like this authority granted for convenience to supplement his present business; that he does not know whether or not there are common carrier units located in Harnett, Johnston or Sampson Counties available for use by the public; that he knows Boyd Q. Douglas but has never requested any service from him; that he owns certain specified equipment used in his private carrier service which would be devoted to use as a common carrier; that he employs two drivers with many years experience in transportation; and that during the past two years he has not used the service, in the counties affected, of existing certificated common carriers.

The applicant also presented three other witnesses, J. N. Stephenson, T. J. Corbin, and George Albert Neighbors. J. N. Stephenson testified that he is Vice President and Cashier of the Waccamaw Bank in Dunn and that this institution finances house trailers; that Waccamaw Bank has not been in the house trailer financing business long; that he has had no occasion to use common carrier service in the movement of mobile homes; that he believes it would be a convenience to the bank to have a local common carrier to move house trailers quickly in the future in the event repossessions are necessary; that his institution has not repossessed any house trailers to this date; that he has no knowledge what, if any, service is available by common carriers for the movement of house trailers in Harnett, Johnston, or Sampson Counties; that he knows the applicant herein and believes him to be a person of good character and reputation with financial ability and a willingness to perform the service here applied for.

T. J. Corbin testified that he lives in Dunn, North Carolina, and is in the trailer park and farming business; that his trailer park is located in the lower end of Harnett County near Spring Lake; that his trailer park is located

nearer to Fayetteville than to Dunn, North Carolina; that he has had the occasion to move mobile homes in the past and has borrowed equipment from the applicant herein to move the same; that he does not know what, if any, common carrier service for the movement of mobile homes is available in any of the counties applied for, or in any surrounding counties; that he feels it would be more convenient for him, if the applicant herein had the authority since he knows the applicant; and that he recommends the applicant as a fit and proper person to perform the service herein applied for.

George Albert Neighbors testified that he lives in Dunn, North Carolina, and works in the funeral home business there; that on one occasion in the past his funeral home called upon the applicant herein to move a house trailer for them which the applicant did free of charge; that the applicant rendered good service without charge; that he does not know what, if any common carrier service is available in Harnett or surrounding counties; and that he does not know what real need there might be for additional service such as here applied for; and that he recommends the applicant as a fit and proper person to render this service.

The applicant presented no public witnesses to testify regarding the existence of a public need for the proposed service and there is no evidence indicating that there is not available authorized carriers to perform the service nor any evidence pertaining to the inability of existing carriers to render this service.

Upon the conclusion of the evidence by the applicant, the protestants and, each of them, orally moved that the application be dismissed for the reason that the applicant failed to show that there is a public need for the proposed service in addition to that available by existing carriers. Whereupon the Commission retired to the conference room and considered the motions of the protestants. After carefully reviewing the evidence as presented by the applicant, in the light of the motions made by the protestants, the Commission was of the opinion that the applicant had failed to show that there is a public need for the proposed service in addition to that available by existing carriers.

All parties waived the privilege of filing briefs.

Upon consideration of the evidence of record adduced in this proceeding, the Commission FINDS That public convenience and necessity does not require the proposed service in addition to existing authorized transportation service.

CONCLUSIONS

If the application is for a certificate, as in this case, the burden of proof is upon the applicant to show to the satisfaction of the Commission, among other things, that the public convenience and necessity require the proposed service in addition to existing authorized transportation service. G.S. 62-262(e). We conclude that the applicant failed to sustain this burden of proof.

The record is convincing that the applicant has a desire to enter the field of transporting mobile homes in the three counties sought. Where the only evidence submitted in support of the application is a mere desire of the applicant to engage in intrastate operations and there is no showing that the existing transportation facilities are inadequate or that the proposed service is required to meet the transportation needs of the public in the territory considered, even though there is evidence of three witnesses who would like to see this applicant afforded the rights applied for, we must conclude that the certificate should be denied.

A mere desire to engage in the common carrier operation by motor vehicle and the mere desire to have a friend engaged in such operation is not evidence, in and of itself, to justify a finding that the service is required by the public convenience and necessity.

Aside from evidence of a willingness and ability to engage in an operation of motor vehicles as a common carrier, there must be an affirmative showing not only that the service is required in the convenience of the public but that there is a necessity on the part of such public. The latter element includes a showing that the present facilities are inadequate for the transportation of mobile homes between the points involved.

IT IS, THEREFORE, ORDERED, That the application of Luby Naylor, d/b/a Naylor Mobile Homes for a Certificate of Convenience and Necessity to transport mobile homes for compensation between points and places within the counties sought be, and the same is, hereby denied and this proceeding dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of May, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-208, SUB 29

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Overnite Transportation) RECOMMENDED
Company, 1100 Commerce Road, Richmond,) ORDER
Virginia)

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on January 21, 22, and 23, 1969, and April 1, 2, 3, and 4, 1969

BEFORE: Commissioners M. Alexander Biggs, Jr., Presiding, Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

T. D. Bunn and Frank R. Liggett, III
Hatch, Little, Bunn & Jones
Attorneys at Law
P. O. Box 527, Raleigh, North Carolina

For the Protestants:

Ralph McDonald
Kenneth Wooten
J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina
For: Helms Motor Express, Inc.
Fredrickson Motor Express Corporation

Joseph C. Moore
B. T. Henderson, II
Carter G. Mackie
Charles H. Young
Gerald L. Bass
Young, Moore & Henderson
Attorneys at Law
Box 309, Raleigh, North Carolina
For: Thurston Motor Lines, Inc.

Robert R. Williams, Jr.
Williams, Morris & Golding
Attorneys at Law
Box 7316, Asheville, North Carolina 28807
For: Blue Ridge Trucking Company

WOOTEN, COMMISSIONER: This cause arises upon the application filed on October 10, 1968, by Overnite Transportation Company (hereinafter referred to as Overnite), 1100 Commerce Road, Richmond, Virginia 23224,

seeking authority as a common carrier over regular routes between fixed termini for the transportation of Group I, "General Commodities", except those requiring special equipment; Applicant requests authority for, and proposes to, transport "general commodities" except those requiring special equipment, as a regular route common carrier over specific highways and routes numbered as follows:

"Between Raleigh, N. C. and Williamston, N. C. From Raleigh over U. S. Hwy. 64 to Tarboro, thence over N.C. Hwy. 44 to junction N.C. Hwy. 42, thence N.C. Hwy. 42 to junction N.C. Hwy. 125 to Williamston and return over same route, serving all intermediate points. (Hereinafter referred to as Route No. 1).

"Between Zebulon, N. C. and Williamston, N. C. From Zebulon over U.S. Hwy. 264 to Wilson, thence over N.C. Hwy. 42 to junction U.S. Hwy. 64, thence over U.S. Hwy. 64 to Williamston and return over same route, serving all intermediate points. (Hereinafter referred to as Route No. 2).

"Between Wilson, N. C. and Williamston, N.C. From Wilson over U.S. Hwy. 264 to Washington, thence over U.S. Hwy. 17 to Williamston and return over same route, serving all intermediate points. (Hereinafter referred to as Route No. 3).

"Between Fayetteville, N.C. and Wilson, N.C. over U.S. Hwy. 301 and/or Int. Hwy. 95, serving all intermediate points. (Hereinafter referred to as Route No. 4).

"Between Kinston, N.C. and Greenville, N.C. Over N.C. Hwy. 11 serving all intermediate points. (Hereinafter referred to as Route No. 5).

"Between Goldsboro, N.C., and Roanoke Rapids, N.C. From Goldsboro over U.S. Hwy. 117 to Wilson, thence over U.S. Hwy. 301 to Weldon, thence over U.S. Hwy. 158 to Roanoke Rapids, and return over same route or U.S. Hwy. 117 to Wilson, thence over Int. Hwy. 95 to Roanoke Rapids and return over same route. Serving all intermediate points. (Hereinafter referred to as Route No. 6).

"Between Wilmington, N.C. and Goldsboro, N.C. Over U.S. Hwy. 117, serving no intermediate points. (Hereinafter referred to as Route No. 7).

"Between Asheville, N.C. and Hazelwood, N.C. Over U.S. Hwy. 23, serving all intermediate points." (Hereinafter referred to as Route No. 8.)

Applicant further seeks authority to amend that common carrier authority heretofore granted to it by this Commission under Docket T-208, Sub 2, which reads:

"From Asheville to Hendersonville, on the one hand and Hendersonville to Asheville on the other, with closed doors at all points between Asheville and Hendersonville; this is, to say no pick-up or delivery at points intermediate between Asheville and Hendersonville."

to read:

"Between Asheville and Hendersonville over U.S. Hwy. 25 and/or Int. Hwy. 26, serving all intermediate points." (Hereinafter referred to as Route No. 9).

In its Calendar of Hearings issued on November 6, 1968, the Commission set this application for hearing on Tuesday, January 21, 1969, at 10:00 o'clock A.M. in the Commission Hearing Room in Raleigh, North Carolina. On December 27, 1968, Petition for Intervention and Protest was filed in this matter by Blue Ridge Trucking Company which has its location and principal office at Asheville, North Carolina. On January 8, 1969, Protest was filed by Thurston Motor Lines, Inc., Charlotte, North Carolina; on January 10, 1969, Protests were filed by Helms Motor Express, Inc., of Albemarle, North Carolina, and Fredrickson Motor Express Corporation, of Charlotte, North Carolina.

The initial hearing in this case was conducted on January 21, 22, and 23, 1969, and the same was continued to the next available date for further hearing in view of the fact that parties were not, in the time allotted, able to complete the presentation of their evidence; and further hearings were had and concluded in this matter on April 1, 2, 3, and 4, 1969.

In summary, the Applicant proposes to afford common carrier "open door" service for general commodities, except those requiring special equipment, over Routes 1, 2, 3, 4, 5, 6, and 8; and "closed door" service over Route 7 between Goldsboro and Wilmington, and finally to amend its present "closed door" authority between Hendersonville and Asheville to "open door" authority on Route 9.

The Applicant, Overnite, seeks to add additional routes to its present and existing authority in both the eastern and western sections of North Carolina, thereby extending its single line operating intrastate common carrier authority, into said areas. It is the contention of Blue Ridge Trucking Company that the authority in Western North Carolina is presently and adequately being served by them and that the granting of such additional authority would not be in the public interest. The Protestants, Helms Motor Express and Thurston Motor Lines, Inc., contend that the granting of the authority sought in the eastern part of North Carolina would duplicate routes and services already afforded by their respective companies over the routes sought. Fredrickson Motor Express Corporation contends that the granting of the additional authority, in both the eastern and western sections of North Carolina, would

adversely affect their operations in Piedmont and Western North Carolina by giving Overnite an additional competitive advantage, and denying to Fredrickson a considerable amount of traffic presently being transported by Fredrickson and interlined with other carriers, including both the Applicant and Protestants here.

During the course of the hearing the Applicant presented two (2) company witnesses, to wit: P. S. Simmons, Vice President of Overnite Transportation Company, and Bobby Johnson, Vice President in Charge of Operations, Overnite Transportation Company, Charlotte, North Carolina; they also presented forty-nine public witnesses from various sections of North Carolina, to wit: Leo Smith, Raleigh, North Carolina, with McCracken Supply Company; Charles Campbell, Williamston, North Carolina, owner and operator of Brown-Campbell Company; Samuel Jacobsen, Winston-Salem, North Carolina, who is in the dyeing and finishing business; Kenneth Davis, Raleigh, North Carolina, Sales Representative, Snyder Paper Corporation; Walter O'Neal, Wilson, North Carolina, Shipping and Receiving Supervisor, Alton Box Board Company; Richard Hamlin, Hickory, North Carolina, Plant Manager for Hamco, Incorporated; Henry Lee Duncan, Hickory, North Carolina, Traffic Manager for Hickory Chair Company; William Robinson, Newton, North Carolina, Robinson Hosiery Mills; John Russ, Morganton, North Carolina, Southern Devices; Norman England, Morganton, North Carolina, Shadowline, Incorporated; J. Ray Huffman, Hickory, North Carolina, Assistant Traffic Manager, Superior Continental Corporation; Rayford E. Hartis, Charlotte, North Carolina, Traffic Manager, Cole Manufacturing Company; M. O. Hall, Jr., Farmville, North Carolina, Shipping and Receiving Supervisor for Farmville Corporation; Robert S. Nanney, Charlotte, North Carolina, Assistant Traffic Manager, Belk Stores Services; George Brewer, Madison, North Carolina, Traffic Manager - Madison Throwing Company; J. H. Royal, Greensboro, North Carolina, Traffic Manager, Marsh Furniture Company; K. C. Snow, Washington, North Carolina, Vice President and Sales Manager, Beaufort Equipment Company; Harold Humbles, Greenville, North Carolina, Parts Manager, Hendricks-Barnhill Company; William H. Goff, Lenoir, North Carolina, Goff Manufacturing Company; Robert W. Spruill, Hickory, North Carolina, Traffic Manager, Southern Desk Company, Division of Drexel Enterprises, Incorporated, subsidiary of U.S. Plywood-Champion Papers, Incorporated; Mrs. Lillian Ennis, Hickory, North Carolina, Traffic Manager, Shuford Mills, Incorporated; Henry Hughes, Tarboro, North Carolina, Plant Manager, Phoenix Trimming Company; Columbus Mayo, Tarboro, North Carolina, Vice President, Mayo Knitting Mills; James R. Broome, Severe, North Carolina, Assistant General Traffic Manager, American Thread Company; Charles E. Jackson, Hickory, North Carolina, President, E. L. Hilts & Company; P. G. Courtney, Williamston, North Carolina, owner, B. S. Courtney & Son; Haywood Edmundson, Charlotte, North Carolina, Office Manager, Sykes, Inc.; Harry Hipps, Newton, North Carolina, Projection Products, Inc.; Robert K. Orr, Hendersonville, North Carolina, Traffic

Manager, Cranston Print Works Company, located in Fletcher, N. C.; Ray Norris, Hazelwood, North Carolina, Traffic Manager, Dayco Corporation, Waynesville, North Carolina; Orville A. Brouer, Waynesville, North Carolina, Executive Secretary of the Waynesville, North Carolina area Chamber of Commerce; Charles Brittain, Hickory, North Carolina, Shipping Room Foreman, Custom Craft Furniture Company; Ed Keller, Hickory, North Carolina, Vice President, B & K Hosiery Mill, Inc.; Brady Adcock, Roxboro, North Carolina, Assistant Plant Manager, Lox-creen Company; Neal Mitchell, Peden Steel Company, Raleigh, North Carolina; Don Lucas, Raleigh, North Carolina, Warehouse Manager, A. B. Dick Duplicating Company; Richard C. Moody, Raleigh, North Carolina, Dillon Supply Company; Kendall Griffin, Greensboro, North Carolina, Central Carolina Warehouses, Inc.; Melvin Powers, Mayodan, North Carolina, Washington Mills, Inc.; Floyd McClure, Clyde, North Carolina, Salesman, Rogers Ford Tractor Company; Arthur Shields, Lincolnton, North Carolina, Heafner Tire Company; Billy Lovelace, Lincolnton, North Carolina, Heafner Tire Company; Al Lofland, Hickory, North Carolina, Drillers Service, Inc.; J. Robert Helms, Monroe, North Carolina, Monroe Hardware Company; Ruel Little, Rocky Mount, North Carolina, N. Summergrade & Sons; Paul Roberson, Lincolnton, North Carolina, Vermont American Corporation; Dick James, Hickory, North Carolina, Master Supply Company.

The company witnesses testified regarding the public convenience and necessity as well as the fitness and willingness of Overnite Transportation Company to supply the services for which authority is here sought and also as to the financial responsibility and experience of the Applicant to ably furnish adequate service on a continuing basis. The public witnesses from the various sections of North Carolina testified in varying degrees to needs regarding public transportation services to, from, and between the points and places for which authority to serve is herein sought by Overnite. Some of the public witnesses' testimony reflected needs involving seasonal problems, while others testified to individual, regular, and/or intermittent and spasmodic needs, and many complaints were expressed regarding the delays involved in interline and interchange of freight between common carriers authorized and operating in intrastate commerce in this State. Many of the complaints involving interchange, related directly to a period of traffic or freight "tie-up" in Charlotte, North Carolina, during the rush season of 1968. Very little of the testimony of the public witnesses was documented and few, if any, documented the complaints to the extent of placing the responsibility therefor. Of the forty-nine (49) shipper witnesses presented in this case by the Applicant, only eight (8) had anything to say regarding the need for service in Western North Carolina over Routes 8 and 9 and one of those witnesses testified that his company had no complaints regarding service in that area (Richard C. Moody). Six of the remaining seven witnesses gave some testimony regarding the need of service over Route No. 8 and two gave some

testimony as to the need of service over Route No. 9. Forty-five (45) of the public witnesses testified regarding service in Eastern North Carolina, the overwhelming majority of which testified regarding slow shipments moving into and out of Eastern North Carolina, but were unable to furnish specific information and examples regarding such delays. A number of the witnesses testified that they were of the opinion that additional service was needed in order to avoid interchange or interline of freight, indicating that this was their basic and main complaint. Some of the witnesses testified that they had no personal knowledge regarding the need, but that they were testifying based upon problems related to them by others, and many of them advised that they had not made complaints to their existing carriers and had not discussed possible corrections in connection with their complaints since their knowledge related to complaints received from the other end of the interline from a customer or manufacturer. Much of the evidence relating to public need and convenience related directly to the "period of congestion" during the late summer and fall of 1968, at which time the services of all carriers who appeared in this proceeding were affected.

The Protestants presented witnesses as follows: Nemiah Goldstein, Asheville, North Carolina, President of Blue Ridge Trucking Company; Loy Foster, Charlotte, North Carolina, Assistant Traffic Manager, Fredrickson Motor Express Corporation; Giles Boysworth, Albemarle, North Carolina, Director of Operations, Helms Motor Express; and John V. Luckadoo, Charlotte, North Carolina, Traffic Manager, Thurston Motor Lines, Inc.

In summary the Protestants' testimony tended to show that the granting of the application in this case would have the net effect of granting an unfair competitive advantage to the Applicant, to the positive detriment of the Protestants and the resultant detriment to the shipping public, for whom service is afforded to many other less sparsely populated areas of the State as well as to the routes here requested; and that the transportation service afforded to the public in the areas involved in this case is adequate to meet the public needs.

Based upon the evidence adduced at the hearing, the records of the Commission introduced by reference, and the records of this Commission, of which judicial notice is taken the Commission makes the following

FINDINGS OF FACT

(1) There are twenty (20) regular route general commodity carriers, including the Applicant, who are <u>authorized and required</u> to serve points on the routes applied for in this proceeding, either direct or by interchange or interline of freight with other regular route general commodity carriers.

(2) There are two hundred and fifty-six (256) irregular route carriers of general commodities who are authorized and may serve all points on the routes applied for, either direct or by interchange with any and all common carriers of property by motor vehicle, railroad, express or water.

(3) Routes 1 through 7, for which authority is herein requested to serve, embrace the center of the Coastal Plain section of North Carolina in which the Applicant does not now have direct authority but only authority through interline or interchange to serve.

(4) The Applicant here seeks authority with reference to Routes 1 through 7 to serve the principal revenue producing points in the major growing sections of the said central portion of the Coastal Plain section of North Carolina, while ignoring the smaller, less revenue producing and outlying points in the Coastal Plain region.

(5) The application, insofar as it pertains to Routes 8 and 9 in the western section of North Carolina, seeks authority to serve the population centers in that area of this State which are the major revenue producing areas of said section and ignores the more remote, less revenue producing and mountainous areas of said section.

(6) The application here duplicates, in many respects, authority previously granted by this Commission to Helms Motor Express, Inc., and Thurston Motor Lines, Inc., in Eastern North Carolina, and similarly, authority granted to Fredrickson Motor Express Corporation and Blue Ridge Trucking Company in Western North Carolina, and in both instances seeks authority to serve the major revenue producing points.

(7) The application here, in addition to duplications above referred to, seeks authority to serve areas which, if granted, would create additional competitive authority and service in the areas affected, with nineteen (19) other regular route general commodity carriers and two hundred and fifty-six (256) such irregular route carriers. Such duplication and additional competition would result between carriers directly, involving those with authority to serve all or portions of the rights requested, and indirectly, involving those common carriers which depend upon interline or interchange of freight between carriers in the East and other areas of the State, into and out of the areas for which authority is here sought to serve.

(8) The interline or interchange of freight between common carriers in North Carolina is an integral and necessary part of the motor transportation policy of this State with many years standing. This Commission in Docket No. M-100, Sub 19, dated 8 May, 1969, authorized the establishment of through routes and joint rates and interchange of intrastate traffic with any and all motor carriers of property by motor vehicle, rail, express or

water, which includes all common carriers whether regular route or irregular route.

(9) During the late summer and early fall of 1968, there occurred a "slow down" of freight, or a "period of congestion" involving freight into and out of all sections of North Carolina, including both inter and intrastate shipments. The "period of congestion" or "slow down" in the movement of freight during the period referred to seriously affected the movement of such freight and all intrastate common carriers. The seriousness of the "slow down" and "period of congestion" prompted this Commission to issue its order above referred to in Docket M-100, Sub 19 and has spurred carriers, who are parties to this proceeding, to take action individually and collectively in order to attempt to assure that a repeat of such circumstances would not occur. Thurston Motor Lines, Inc., Helms Motor Express, Inc., and Blue Ridge Trucking Company hold regular route common carrier authority which the applicant here seeks to duplicate, said application being to duplicate said authority in the populated centers of the areas affected; while the authority heretofore granted to the Protestants includes not only the populated and major revenue producing centers of said sections, but also the sparsely populated and small revenue producing areas; the duplication of authority here sought would adversely affect, from a financial standpoint, the operations of Thurston, Helms, and Blue Ridge, in the light of the above, and would afford an additional and unfair competitive advantage to the Applicant; in addition, negative financial results would be realized by Protestant, Fredrickson Motor Express Corporation, as well as other regular and irregular route common carriers who depend upon interline freight for traffic flowing into and out of the points here involved on Routes 1 through 9.

(10) The Applicant, Overnite, is a prime source of interline traffic for other carriers, Protestants and otherwise, serving the areas here affected.

(11) The majority of the testimony presented reflected the complaints of individual shippers and receivers relating to the delay of freight into and out of the points for which authority to serve is here requested, and such complaints clearly pointed to a disagreement with the basic interline or interchange policy of the State of North Carolina as established by the General Assembly by statute, and also to that special period of time which has been designated as a "slow down" or "congestion period" or the "Charlotte bulge" occurring in the latter portion of the year 1968, affecting all carriers including the Applicant and Protestants herein.

(12) An additional competitive advantage of great proportions would be granted to the Applicant if their application is approved when tacked to and supplementing their present authority heretofore granted by this Commission.

(13) Considerable evidence was presented in this case placing much of the blame and criticism for the delayed traffic into and out of Eastern and Western North Carolina on the interline or interchange system which is a portion of the transportation policy of this State, yet no evidence was introduced from which the Commission could factually determine the responsibility for unusual and long delays relating thereto; the record is bare of evidence which would exonerate the applicant here, the Protestants, or any other common carrier serving intrastate in North Carolina.

(14) Public witnesses who testified on behalf of the Applicant testified to a number of unsupported examples of slow traffic without relating to the responsibility for such movements and what, if any, part the Applicant may have played in such delays; many of the complaints supporting the need for additional common carrier service related to areas not included in the application in this case; many of the public witnesses testified that they had not made complaints to the carriers involved and had not determined the responsible carrier, and only two of the witnesses testified that they had related their complaints to this Commission.

(15) Many complaints were presented by the numerous public witnesses who testified for the Applicant in this case, yet the Applicant's evidence fails to establish the responsibility for such complaints; these complaints in the main related to the interexchange of freight between carriers, with the Applicant being a participating member in such interchange.

(16) Some of the witnesses testified to a need for one single line carrier service to all points in North Carolina for personal or individual considerations and not public considerations (i.e., shortage of dock or loading facilities ... etc.).

(17) During the period of freight congestion in 1968, from which many complaints in this case arose, the Applicant, Overnite Transportation Company admitted that they suffered from such congestion and declined freight during said period; Overnite also admitted that they sought and obtained emergency authority to serve areas in Eastern North Carolina during the congested period, but that they did not use it extensively to alleviate said problem. The Applicant, Overnite, was in part responsible for some of the delays in the movement of interline traffic, testified to by some of the witnesses on behalf of said Applicant.

(18) It was evident from the complaints of the many witnesses for the Applicant that a large number of the problems complained of arose due to the failure of intrastate motor carriers to cooperate and coordinate the smooth and tranquil movement of interline freight between carriers into and out of the areas involved and located on and between points on Routes 1 through 9.

(19) The service now being provided by the Applicant, the Protestants and other regular and irregular route common carriers, directly and through interline of traffic is reasonably adequate and satisfactory.

(20) A public demand and need does not exist for the proposed service in addition to existing authorized transportation service.

(21) That Overnite Transportation Company is a corporation organized and duly existing by law, and authorized to transact business in the State of North Carolina in such corporate capacity; that the said Applicant is properly before this Commission which has jurisdiction over the subject matter of the application; and that Overnite is fit, willing and able, financially and otherwise, to properly and adequately supply the service, for which authority is requested, on a continuing basis.

From the records of the Commission, the evidence and testimony at the hearing, and the above Findings of Fact, we make the following

CONCLUSIONS

1. That the Applicant has failed to carry the burden of proving by the evidence and its greater weight that the present motor transportation service afforded the areas affected by this application is inadequate. In addition, the Applicant has not shown that the limited interest in having a new and additional transportation service outweighs the overriding public interest of protecting the service of existing carriers, and through such carriers, those members of the public sought to be served.

2. The basis for the requirements of a Certificate of Public Convenience and Necessity, as a prerequisite to the right to serve, is the adoption, by the General Assembly, of a policy that, nothing else appearing, the public is better served by a regulated monopoly than by competing suppliers of service. The requirement of such a certificate is not an absolute prohibition of competition between public common carriers rendering the same service where the public need exists. There is, however, inherent in this requirement the concept that, once a certificate is granted which authorizes the holder or holders to render the proposed service within the geographic area in question, a certificate cannot be granted to an additional competitor in the absence of a showing that the carriers in the area are not rendering, and cannot or will not render the service in question.

3. That the applicant has failed to carry the statutory burden of proof placed upon it by North Carolina General Statute 62-262(e)(1) that public convenience and necessity require the proposed service in addition to existing authorized transportation service.

4. That the major problems presented to justify the application and to show public convenience and necessity related to desires of individual shippers and receivers for a one (1) line transportation service, negating interchange or interline of freight between carriers, while it is common knowledge that all carriers interline or interchange freight within their own operations, particularly on long hauls; and that the Order of May 8, 1969, issued by this Commission, directed towards improving the interchange of freight is in accord with the transportation policy of this State as set forth in N.C.G.S. 62-2, "... to provide just and reasonable rates and charges for public utility services without unjust discrimination, undue preferences or advantages, or unfair or destructive competitive practices, to encourage and promote harmony between public utilities and their users, to foster a State-wide planning and coordinating program to promote continued growth of economical public utility services ... ".

5. That the Applicant has established, in some measure, the fact that the provisions of G.S. 62-200, requiring the movement of freight within a reasonable time, have not been complied with; however, there is not sufficient proof that such non-compliance relates to the failure of the Protestants, others or to the Applicant itself. Failure of sufficient proof in this connection is important, for the reason that, if such wrong doing were attributable to the Applicant, this Commission could not permit it to profit from its own wrong.

Similarly, G.S. 62-210 provides that: "All common carriers subject to the provisions of this chapter shall afford all reasonable, proper and equal facilities for the interchange of traffic between their respective lines, and for the forwarding and delivering of ... freight to and from their several lines and those connecting therewith, and shall not discriminate ..." The violation of this statute and the failure of carriers to comply therewith is one of the basic foundations of the Applicant's case, yet insufficient evidence exists as to who or what carrier violated the same or failed to comply therewith, and, in fact, the evidence indicates, at least in some instances, that the Applicant itself was the guilty party. We conclude it to be improper for this Commission to reward a wrong doer, and penalize one who has done no wrong, and the failure of proof by the evidence and its greater weight by the Applicant in this connection dictates against approval of its application.

6. That it is the responsibility of the Commission and the carriers in this State to comply with the statutes above referred to; that this Commission's Order of May 8, 1969, regarding improvement in the free exchange or interline of freight between carriers is designed to correct the problems which form the basis and foundation of the Applicant's case, and in so doing complies with the transportation policy of this State (G.S. 62-2); and that the carriers to this

proceeding have and are taking steps on their own to implement the Commission's Order and comply with the statutes, all of which negates the approval of the application herein.

7. We conclude that the evidence in this case, when considered as a whole, fails to show a substantial need for service which existing carriers cannot reasonably meet and that the same evidence establishes by its greater weight that the additional service applied for would endanger or impair the operaton of existing carriers, contrary to the public interest.

8. We finally conclude that the answer to the problems of interchange-caused delay in freight movement to points in the remote areas of the State is to expedite interchange freight movement, rather than to create new authority; the carriers, by cooperating with each other, and complying with the law and rules and orders of this Commission, can eliminate most of the unnecessary delay in interchange, and by working to do so, all carriers can profit and survive and the public convenience and necessity will be served.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

That the application of Overnite Transportation Company, in Docket No. T-208, Sub 29, be, and the same is, hereby denied.

IT IS FURTHER ORDERED:

That a copy of this order be transmitted to each of the attorneys of record in this proceeding.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

(Commissioner Williams concurs)
(Commissioner Biggs does not concur)

DOCKET NO. T-480, SUB 27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Thurston Motor Lines, Inc.,) RECOMMENDED
601 Johnson Road, Charlotte, North Carolina,) ORDER
to Serve Certain Additional Routes)

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on April 9, 10 and 11, 1969, and on June 24, 1969

BEFORE: Commissioners John W. McDevitt (Presiding), M. Alexander Biggs, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Charles H. Young
Young, Moore & Henderson
Attorneys at Law
P. O. Box 309, Raleigh, North Carolina

B. T. Henderson II
Young, Moore & Henderson
Attorneys at Law
P. O. Box 309, Raleigh, North Carolina

For the Protestants:

Kenneth Wooten, Jr.
and Ralph McDonald
Bailey, Dixon & Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina
For: Fredrickson Motor Express Corporation

T. D. Bunn
Hatch, Little, Bunn & Jones
Attorneys at Law
P. O. Box 527, Raleigh, North Carolina
For: Overnite Transportation Company

Frank R. Liggett III
Hatch, Little, Bunn & Jones
Attorneys at Law
P. O. Box 527, Raleigh, North Carolina
For: Overnite Transportation Company

James N. Golding
Williams, Morris & Golding
Attorneys at Law
4 South Pack Square
Asheville, North Carolina
For: Blue Ridge Trucking Company

BIGGS, COMMISSIONER: These proceedings arise on application filed by Thurston Motor Lines, Inc. (Thurston), with the North Carolina Utilities Commission (Commission) on January 9, 1969, wherein the applicant seeks authority to transport certain groups of commodities by motor vehicle as a common carrier over nine specified routes. Petitions for intervention and protest were filed on February 5, 1969, by Blue Ridge Trucking Company (Blue Ridge), on March 6, 1969,

by Overnite Transportation Company (Overnite) and on March 18, 1969, by Fredrickson Motor Express Corporation (Fredrickson). On February 13, 1969, the applicant amended its application by adding an additional route. The interventions and amendment were allowed by the Commission.

The application came on for hearing on Wednesday, April 9, 1969, pursuant to notice published in Calendar of Hearings issued by the Commission on January 28, 1969, and on February 21, 1969, at which hearing appearances were made as specified in the caption. After three days of hearing, the hearing was recessed until June 24, 1969, at which time hearing was resumed and concluded. During the hearing, it was stipulated by applicant and intervenors that the application to serve Route 7, as designated in the application, is withdrawn.

The applicant offered into evidence the testimony of company witnesses, shipper witnesses, documentary evidence and evidence received by reference to certain Commission records. The protestants offered the testimony of company witnesses, documentary evidence and evidence received by reference to certain Commission records.

FINDINGS OF FACT

Based upon evidence adduced at the hearing, the Commission makes the following findings of fact:

1. That the applicant, Thurston Motor Lines, Inc., presently holds Common Carrier Certificate No. C-26 issued by the Commission under which it is authorized to transport Group 1, General Commodities (and in some instances other commodities), by motor vehicle as a common carrier over some 45 specified routes in North Carolina. The applicant also holds authority to transport Group 1, General Commodities, as a common carrier over irregular routes from Charlotte to points and places in North Carolina on and west of U.S. Highway 1. The applicant seeks in this proceeding to acquire authority to transport Group 1, General Commodities, and other specified commodity groups over the following additional routes:

Route 1. From Salisbury to Statesville over U.S. Highway 70.

Route 2. From Statesville to Morganton over U.S. Highways 64 and 70.

Route 3. From Morganton to Glen Alpine over U.S. Highway 70.

Route 4. From Charlotte over N.C. Highway 27 to Lincolnton, thence over U.S. Highway 321 to junction with U.S. Highway 321 A thence over U.S. Highways 321 and 321 A to Lenoir.

Route 5. From Morganton to Lenoir over N.C. Highway 18.

Route 6. From Charlotte to Conover over N.C. Highway 16.

Route 7. From Asheville to Waynesville over U.S. Highway 23.

Route 8. From Plymouth over N.C. Highway 32 to junction of N.C. Highway 99, thence over N.C. Highway 99 to Pantego, thence over U.S. Highway 264 to Belhaven.

Route 9. From junction of N.C. Highway 42 with N.C. Highway 43 over N.C. Highway 42 to its junction with U.S. Highway 64 near Conetoe.

Return over the aforesaid routes, serving all intermediate points.

Route 10. From Charlotte to Wingate over U.S. Highway 74 and return over aforesaid route, serving all intermediate points.

2. The intrastate transportation of Group 1, General Commodities, over and along and to and from points on the additional routes sought herein is presently being provided by other certificated common carriers as follows:

(a) Route 1 is entirely served by Yount Transfer Inc. (Yount), Overnite, McLean Trucking Company (McLean), R. D. Fowler Motor Lines, Inc. (Fowler), Fredrickson and Central Motor Lines, Inc. (Central).

(b) Route 2 is entirely served by Central, Fowler, Fredrickson, McLean, Overnite and Yount.

(c) Route 3 is entirely served by Central, Fredrickson, Fowler, McLean and Overnite.

(d) Route 4 is entirely served by Fredrickson, Overnite and Central.

(e) Route 5 is entirely served by Overnite, Fowler and Fredrickson.

(f) Route 6 is entirely served by Overnite, Fredrickson and Central.

(g) Route 7 is entirely served by Blue Ridge and Fredrickson, and the Town of Erka on said route is also served by Central, McLean, Overnite and Thurston, and the Town of Canton on said route is also served by Central.

(h) Route 8 is presently served by the applicant under temporary authority granted by the Commission; otherwise, it is unserved by a regular route carrier.

(i) Route 9 is unserved by a regular route carrier.

(j) Route 10 is entirely served by Overnite, Carolina Freight Carriers Corporation, Central and The New Dixie Lines, Incorporated, and the Town of Matthews on said route is also served by Fredrickson, Helms Motor Express, Inc., and Thurston.

3. The more than 30 shipper witnesses offered by the applicant complained of transportation services involving an interchange between connecting carriers. Such witnesses pointed out that the handling of freight via interchange involves not only delay but that it enhances the chance of damage to the freight from the increased handling. The weight of such testimony indicates that the interchange of freight between connecting carriers involves a delay of at least one day in the overall shipping time. Unlike the evidence presented by the shipper witnesses in the hearings conducted in Docket No. T-208, Sub 29, involving the application of Overnite Transportation Company for authority to serve certain additional routes in eastern North Carolina, the shipper witnesses testifying in this proceeding did not specify to any appreciable extent the total time in transit for their shipments to and from the points in question.

4. Much of the freight originating and terminating on Route Nos. 1, 2, 3, 4, 5, 6 and 10 is now being handled by the protestants, Fredrickson and Overnite, via interchange with the applicant and other connecting carriers.

5. During the week of March 24, 1969, through March 28, 1969, intrastate shipments originating with the applicant at certain eastern North Carolina points and terminating with Fredrickson at points on the routes in question, were delivered by Frederickson on the date it received the shipments from Thurston. The date of transfer from Thurston to Fredrickson was, in most instances, two or more days after the date the shipment was picked up by Thurston, not counting weekends. On shipments originating and picked up by Fredrickson on April 29, 1969, at points on the routes in question and delivered to Thurston for handling to points in eastern North Carolina served by the applicant, the transfer by Fredrickson to Thurston was effected on the day following pick up in all instances. This showing of transit time by Fredrickson and that of Overnite (pertaining primarily to its handling of single-line shipments) are the only documentations of transit time in the record.

6. No documented evidence was offered by the applicant as to the time involved in its handling of shipments, either as the originating or terminating carrier, and there was no statement that such evidence is unavailable.

7. The applicant's case rests entirely upon the general statements of the witnesses that there is delay in shipments handled by interchange between connecting carriers.

8. The transportation of freight via interchange by connecting carriers is an essential part of the intrastate transportation service afforded by regular route common carriers, and through such interchange connections, intrastate transportation of freight can be effected between all the points along the routes sought in this application except those points along Route 8 and Route 9. The mere showing of shipper dissatisfaction with transportation via interchange between connecting carriers will not justify a finding that public convenience and necessity require the applicant's proposed increased offering of one-line service in addition to existing authorized transportation service.

9. The one-day delay resulting from transfer of freight between interconnecting carriers is a delay which can be substantially reduced or eliminated by improved interchange agreements and procedures, and the carriers participating in such interchanges should be required to effect such improvements in their handling so as to eliminate or minimize these delays; however, the finding made herein of such delay in and of itself is not a sufficient basis for a finding that public convenience and necessity require the applicant's proposed increased offering of one-line service in addition to existing authorized transportation service.

10. The applicant's evidence related entirely to the shipment of Group 1, General Commodities, and did not contain any showing with respect to the other commodity groups mentioned in the application; namely, Group 5, Solid Refrigerated Products; Group 6, Agricultural Commodities; Group 7, Cotton in Bales; Group 8, Dry Fertilizer and Dry Fertilizer Materials; Group 10, Building Materials; Group 13, Motor Vehicles; Group 16, Furniture Factory Goods and Supplies; and Group 17, Textile Mill Goods and Supplies.

11. Routes 8 and 9, as described in the application, have no regular route service other than that proposed to be offered by the applicant, and public convenience and necessity require the proposed regular route transportation service in addition to existing authorized transportation service.

CONCLUSIONS

Under G.S. 62-262, the applicant has the burden of showing to the satisfaction of the Commission the following:

"(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."

It is concluded as to Route Nos. 1, 2, 3, 4, 5, 6 and 10 that the applicant has failed to carry the burden of proof that public convenience and necessity require its proposed service along said routes in addition to existing transportation service. It appears that regular route common carrier service is presently provided along said routes by several other certificated carriers and that said carriers are providing a reasonably prompt pick up and delivery service to the shippers on said routes. It further appears that the dissatisfaction expressed by the applicant's shipper witnesses related to their dissatisfaction with a transportation service involving interchange between connecting carriers. As set forth in the Findings of Fact, transportation via such interchange is established and accepted in this State, and the issuance of additional authorities based upon a mere dissatisfaction with that factor alone would ultimately lead to a breakdown in the system which prescribes territorial limitations for existing carriers. It is incumbent upon the carriers to interchange freight between themselves in such manner that the interchange does not affect the quality of the transportation service. This duty is clearly spelled out in G.S. 62-210. It is recognized that some delay results from each handling of an article of freight and that handlings and transfers of freight enhance the possibility of it being damaged; however, it is also recognized that even on one-line movements there are usually several transfers and handlings. The transfer of freight between connecting carriers should not involve significantly any greater delay or risk of damage than transfer between the vehicles of a single carrier, and it is upon this basis that transportation service via interchange between connecting carriers has been established and accepted. The evidence in this case does not justify the Commission in abandoning its adherence to this principle.

As to Route Nos. 8 and 9, which have no regular route service other than that proposed by the applicant, it is concluded that as to Group 1, General Commodities, the applicant has borne the burden of proof under G.S. 62-262 and that it should be authorized to provide its proposed service along said routes.

IT IS, THEREFORE, ORDERED that applicant's request for authority to provide regular route common carrier motor freight transportation service along Route Nos. 1, 2, 3, 4, 5, 6 and 10, as hereinabove described, be and the same is hereby denied.

IT IS FURTHER ORDERED that as to Group 1, General Commodities, the applicant's request to provide regular route motor freight transportation service along Route Nos. 8 and 9, as hereinabove described, be and the same is hereby approved and granted; and the applicant's Certificate No. C-26 is hereby amended in accordance with the provisions of

Exhibit A hereto attached and made a part hereof by reference.

ISSUED BY ORDER OF THE COMMISSION.
This the 27th day of August, 1969.

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

Commissioner Wooten concurs.
Commissioner McDevitt does not concur.

DOCKET NO. T-480 SUB 27

Thurston Motor Lines, Inc.
601 Johnson Road
Charlotte, North Carolina

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of Group 1, General Commodities, except those requiring special equipment or special equipment for hauling, loading, or unloading or any special or unusual service in connection therewith, over the following routes:

From Plymouth over N.C. Highway 32 to junction of N.C. Highway 99, thence over N.C. Highway 99 to Pantego, thence over U.S. Highway 264 to Belhaven.

From junction of N.C. Highway 42 with N.C. Highway 43 over N.C. Highway 42 to its junction with U.S. Highway 64 near Conetoe.

Return over the aforesaid routes, serving all intermediate points.

DOCKET NO. T-480, SUB 27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Thurston Motor Lines, Inc.,)
601 Johnson Road, Charlotte, North Carolina,) ORDER
to Serve Certain Additional Routes)

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on September 23, 1969, at 9:30 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners Clawson L. Williams, Jr., M. Alexander Biggs, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

B. T. Henderson II
Young, Moore & Henderson
Attorneys at Law
P. O. Box 309, Raleigh, North Carolina

For the Protestants:

Frank R. Liggett III
Hatch, Little, Bunn & Jones
Attorneys at Law
P. O. Box 527, Raleigh, North Carolina
For: Overnite Transportation Company

Ralph McDonald
Bailey, Dixon & Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina
For: Fredrickson Motor Express Corporation

BY THE COMMISSION: This cause now comes before the Commission upon Exceptions to the Recommended Order made in this cause on August 27, 1969. Said Exceptions relate to the Findings of Fact and Conclusions made by the Hearing Commissioners and the failure of the Hearing Commissioners to find certain facts and make certain conclusions.

The Commission has given consideration to each of the Exceptions, to the Petition filed, heard, and decided. Upon such consideration the Commission is of the opinion: (1) that the evidence offered at the hearing was not sufficient to warrant and support the Findings of Fact Numbers 3. and 7., in said Order; (2) that said Findings of Fact Numbers 3. and 7. should be amended to read as follows:

FINDING OF FACT NO. 3

FROM:

"3. The more than 30 shipper witnesses offered by the applicant complained of transportation services involving an interchange between connection carriers. Such witnesses pointed out that the handling of freight via interchange involves not only delay but that it enhances the chance of damage to the freight from the increased handling. The weight of such testimony indicates that the interchange of freight between connecting carriers involves a delay of at least one day in the overall shipping time. Unlike the evidence presented by the shipper witnesses in the hearings conducted in Docket No.

T-208, Sub 29, involving the application of Overnite Transportation Company for authority to serve certain additional routes in eastern North Carolina, the shipper witnesses testifying in this proceeding did not specify to any appreciable extent the total time in transit for their shipments to and from the points in question."

TO:

3. The more than 30 shipper witnesses offered by the applicant complained of transportation services involving an interchange between connecting carriers. Such witnesses pointed out that the handling of freight via interchange involves not only delay but enhances the chance of damage to the freight from the increased handling. The weight of such testimony indicates that the interchange of freight between connecting carriers involves a delay of at least one day in the overall shipping time. The evidence did not specify to any appreciable extent the total time in transit for their shipments to and from the points in question.

FINDING OF FACT NO. 7

FROM:

"7. The applicant's case rests entirely upon the general statements of the witnesses that there is delay in shipments handled by interchange between connecting carriers."

TO:

7. The applicant's case rests largely upon the general statements of the witnesses that there is delay in shipments handled by interchange between connecting carriers.

and (3) that the evidence offered at the hearing was sufficient to warrant and support all other Findings, Conclusions and Order to which Exceptions were taken.

IT IS, THEREFORE, ORDERED, that the Exceptions to Findings of Fact Numbers 3. and 7. be sustained, and that said Findings of Fact Numbers 3. and 7. in the aforementioned Order be, and the same are, hereby amended to read as follows:

3. The more than 30 shipper witnesses offered by the applicant complained of transportation services involving an interchange between connecting carriers. Such witnesses pointed out that the handling of freight via interchange involves not only delay but enhances the chance of damage to the freight from the increased handling. The weight of such testimony indicates that the interchange of freight between connecting carriers involves a delay of at least one day in the overall

shipping time. The evidence did not specify to any appreciable extent the total time in transit for their shipments to and from the points in question.

7. The applicant's case rests largely upon the general statements of the witnesses that there is delay in shipments handled by interchange between connecting carriers.

IT IS FURTHER ORDERED, that the Exceptions Numbered 2, 3, 5, 6, 7, 8, 9, and 10, and each of them, be, and the same are, hereby overruled, and the Findings and Order to which said Exceptions relate are, hereby, made the Findings and Order of the Commission.

IT IS FURTHER ORDERED, that the Recommended Order entered herein on August 27, 1969, as amended by the first ordering paragraph above, be, and the same is, hereby ratified and adopted by the Commission as its Order, effective this date.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of September, 1969.

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

DOCKET NO. T-1053, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Failure of Lloyd Walter Childers, Jr., d/b/a) RECOMMENDED
Childers Transfer Co., 1510 Hickory Street,) ORDER
Rockingham, North Carolina, to keep) REVOKING
appropriate insurance on file) CERTIFICATE

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on May 23, 1969, at 10:00 A.M.

BEFORE: Commissioners John W. McDevitt and M. Alexander Biggs, Jr.

APPEARANCES:

For the Respondent:

Neither present nor represented by counsel

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney
Raleigh, North Carolina

On March 19, 1969, the Commission issued an order suspending the operating authority of Lloyd Walter Childers,

d/b/a Childers Transfer Co., (Respondent), 1510 Hickory Street, Rockingham, North Carolina, 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, Raleigh, North Carolina, at 10:00 o'clock A.M., Friday, May 23, 1969, 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 Respondent on March 21, 1969.

Pursuant to the provisions of said order, the matter came on for hearing for the purpose set out therein on May 23, 1969, 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 judicial notice is taken, Respondent's file and the competent evidence adduced at the hearing, the Hearing Commissioners make the following

FINDINGS OF FACT

1. That pursuant to the provisions of an order in this docket under date of December 5, 1963, the respondent is the holder of Certificate No. C-759 in which he is authorized to transport, as an irregular route common carrier, certain specified commodities within the territory designated in said Certificate.

2. That the Commission was notified on January 9, 1969, that the liability insurance of Respondent would be cancelled, effective March 5, 1969; that the Commission notified the Respondent of said cancellation by letter dated January 16, 1969, 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 March 19, 1969, 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 March 21, 1969.

3. That at the hearing on May 23, 1969, 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 security for the protection of the public as required by G.S. 62-268.

Based on the foregoing Findings of Fact, the Hearing Commissioners make the following

CONCLUSIONS

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 Hearing Commissioners conclude that Respondent has willfully failed to comply with G.S. 62-268 and that Certificate No. C-759 heretofore issued to Respondent should be cancelled and revoked.

IT IS, THEREFORE, ORDERED that Certificate No. C-759, heretofore issued to Lloyd Walter Childers, Jr., d/b/a Childers Transfer Co., 1510 Hickory Street, Rockingham, 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 3rd day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-773, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Failure of Elmer N. Wilkinson, d/b/a Elmer N. Wilkinson Transfer, Box 541, Mebane, North Carolina, to Keep on File Classification Ratings	) ORDER) CANCELING) CERTIFICATE) IN PART

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on May 2, 1969, at 10:00 o'clock, a.m.

BEFORE: Chairman Westcott, Presiding, Commissioners Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For Respondent: (No one)

For the Commission Staff:

Edward B. Hipp
Commission Attorney

BY THE COMMISSION: By order dated March 4, 1969, the Commission suspended the operating authority of Elmer N. Wilkinson, d/b/a Elmer N. Wilkinson Transfer (Respondent) and directed said Respondent to appear before the Commission on May 2, 1969, to show cause, if any he had, why his certificate should not be revoked for failure to keep on file his classification ratings as required by G.S. 62-138. The order was served upon Respondent March 7, 1969, by Commission Inspector, Jesse W. Hill.

The hearing was duly held at the time and place hereinbefore stated but Respondent did not appear and was not represented by counsel.

The evidence of the staff tends to show:

1. That by letter dated December 31, 1968, the Traffic Department of the Commission called Respondent's attention to the cancellation of his classification ratings, and to General Statute 62-138, requiring carriers to post and keep on file with the Commission their classification ratings on property they are authorized to transport within North Carolina. At that time this carrier was notified that his failure to keep his classification ratings on file could result in the Commission taking steps toward the revocation and cancellation of his certificate.

2. Respondent permitted his classification ratings to be canceled effective February 25, 1969, and has not arranged to republish and file said ratings.

3. Respondent is in violation of the provisions of G.S. 62-138.

Upon consideration of the evidence adduced at the hearing and the record in this proceeding as a whole, the Commission makes the following

FINDINGS OF FACT

1. That Respondent, Elmer N. Wilkinson, d/b/a Elmer N. Wilkinson Transfer, is the holder of Certificate No. CP-27.

2. That Respondent knowingly and willfully refused to refile his classification ratings by February 25, 1969, and has taken no action to restore said classification ratings.

3. That Respondent did not appear at the hearing on May 2, 1969, nor has he shown cause why his certificate should not be revoked.

4. That Respondent having no classification ratings on file is without a basis for arriving at the lawful charges on certain traffic he is authorized to transport in North Carolina intrastate commerce.

On the basis of the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

Respondent did knowingly and willfully permit his classification ratings to be canceled and did knowingly and willfully refuse to refile said ratings with the Commission. Therefore, the Commission feels it is required to revoke or cancel that portion of Respondent's operating authority which makes necessary the publication and filing of classification ratings in conformity with G.S. 62-138.

IT IS THEREFORE ORDERED:

(1) That the operating authority of Elmer N. Wilkinson, d/b/a Elmer N. Wilkinson Transfer, as set forth in Certificate No. CP-27, be, and same is hereby amended by deleting therefrom all commodities which make necessary the publication and filing by this irregular route common carrier of classification ratings and rules and regulations in connection therewith.

(2) That Certificate No. CP-27 heretofore issued to Elmer N. Wilkinson, d/b/a Elmer N. Wilkinson Transfer, be amended by revising Exhibit B thereof, to read in accordance with Exhibit B attached hereto.

IT IS FURTHER ORDERED:

That the order dated March 4, 1969, issued against Elmer N. Wilkinson, d/b/a Elmer N. Wilkinson Transfer, in this matter be, and the same is hereby, vacated and set aside and the proceeding discontinued.

ISSUED BY ORDER OF THE COMMISSION.
This the 14th day of May, 1969.

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

DOCKET NO. T-773 SUB 1

Elmer N. Wilkinson Transfer
Elmer N. Wilkinson, d/b/a
Mebane, 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-1469

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Adolph Kornegay, d/b/a A. K. Motors, 919 North Breazeale Ave., Mount Olive, North Carolina) ORDER

HEARD IN: The Commission's Hearing Room, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on July 23, 1969, at 2:00 P.M.

BEFORE: Commissioners Marvin R. Wooten (Presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

Douglas P. Connor
Attorney at Law
P. O. Box 49
112 North Center Street
Mount Olive, North Carolina

For the Protestant:

Thomas S. Harrington
Vaughn & Harrington
Attorneys at Law
Box 535, Eden, North Carolina
For: Morgan Drive Away, Inc.

WOOTEN, COMMISSIONER: This matter arises upon the application filed by Adolph Korregay, d/b/a A. K. Motors, 919 North Breazeale Ave., Mount Olive, North Carolina, for irregular route common carrier authority for the transportation of mobile homes in the territory described as "all of Wayne, Duplin, Lenoir, Sampson and Johnston Counties, and from Mount Olive to and from Wilson, Raleigh and Wilmington, North Carolina." Said application was filed with the Commission on June 23, 1969, and notice of the application was given in the Commission's Calendar of Hearings issued July 1, 1969. In apt time, protest was filed with the Commission on July 14, 1969, by Attorney Thomas S. Harrington, for and on behalf of Morgan Drive Away, Inc.

At the hearing evidence was offered by the applicant which tends to show that the applicant has been engaged in the business of transporting mobile home trailers for several years; that he continued operating without a certificate of authority until he was recently advised that he was operating illegally; that he immediately stopped hauling house trailers and applied for and was granted a Certificate of Exemption within the City limits of Mount Olive, North Carolina; that he has equipment and experience in the transporting of mobile home trailers; that in addition to being in the business of transporting mobile home trailers, the applicant operates a trailer park and a garage and service station business; that he owns four (4) pieces of equipment designed, modified and adapted for the purpose of hauling house trailers and which is equipped with the requisite equipment and safety devices for such operation; that he is well equipped by experience in the operation of mobile home equipment for the purposes for which it is designed and that he has in his employ available helpers who are also experienced in such operation, and that he has the necessary equipment to perform the operation for which authority is sought.

The applicant presented five (5) witnesses, including himself and operators of trailer sales businesses and men who live in the area and are experienced in moving house trailers, whose testimony tended to show that there is a need for the service proposed by the applicant in addition to existing authorized transportation service; that they know the applicant and have known him for sometime, are familiar with the equipment of the applicant and the ability of the applicant to render the service for which authorization is sought, and that they desire that the proposed service be made available; the witnesses also testified that there are a number of trailer parks in and around Wayne County, North Carolina, in varying sizes and locations, stating, in their opinion, that there was a need for someone in the immediate area with authority to move mobile homes in addition to service presently available.

The applicant testified that during the years he had been in the business that he had received numerous calls and

requests for the movement of house trailers and that he had in fact made many such movements; that when it was called to his attention that he was operating illegally, he immediately stopped such operations, filed this application and seeks to comply with the law.

The protestant offered testimony, briefly stated, that it is a nationwide authorized mover of trailer units or mobile homes; that they operate in practically all of the States in the Union; that it holds statewide intrastate authority in North Carolina; that they do not own any trucks whatsoever for the movement of house trailers in this State, and own little, if any, property used and useful in the transportation service used in this State; that they buy operating licenses for the motor vehicles which they have under lease; that they lease from an individual in North Carolina a motor vehicle which must be equipped and designed for hauling mobile homes; that the lease is ordinarily made with the understanding that the owner of the vehicle under lease will actually operate the vehicle; that under the lease agreement, the owner of the leased vehicle ordinarily operates the business and does all that is required to move the unit and collects for the service; that the protestant retains a certain percentage of the revenue made and remits a certain percentage to the lessor; that in most instances they establish terminals at points where business seems more readily available; that the terminal managers are paid an hourly rate and are usually the wife of a leased vehicle owner and that the terminal is generally located in her home; that the lessee exercises no control whatever over the use and operation of the leased vehicle; that the owner of the vehicle operates the business in many instances, makes the trip, collects the revenue, and simply turns into the lessee a percentage of the revenue received from operating on the lessee's rights; that at the time of the hearing, Morgan Drive Away, Inc., had fifty-one (51) trucks under lease in North Carolina; that they established a terminal in Goldsboro, North Carolina with two (2) trucks operating out of the same, subsequent to the filing of the application in this case because they were convinced that there was a public need and demand for this service in Wayne and surrounding counties; that under their lease agreements, the lessee furnishes insurance coverage while the truck is actually being used in making a movement of a house trailer and at other times the lessor has to provide his own insurance coverage; that the major portion of their business is interstate and much of their business is long haul business which would require trucks being away from their terminal for a number of days on long haul trips and as a result such vehicles would not be available in many instances to render service within a short period of time locally; however, they contend that they would call in trucks from other areas to supply any need.

From the evidence offered, a portion of which is set out above, the Commission makes the following

FINDINGS OF FACT

1. That the applicant owns the necessary equipment for the movement of house trailers as specified.

2. That the applicant and his helpers or employees are experienced in the movement of house trailers and in the use of equipment for the hauling thereof for which authorization is sought.

3. That the applicant is now engaged in the movement of house trailers under a Certificate of Exemption between points and places in the commercial zone of the Town of Mount Olive, North Carolina.

4. That the applicant is fit, willing and financially and otherwise qualified and able to properly perform adequate service as proposed in this application, and to continue such service as long as the need therefor exists.

5. That the public convenience and necessity require the service of the applicant for the hauling of mobile homes or house trailers, as specified, in addition to other existing authorized transportation service.

CONCLUSIONS

It appears from the evidence that the need for transporting or hauling mobile homes or house trailers, as specified, is substantial and will probably increase; that to move such trailers from one place to another requires the use of equipment specifically designed and modified for the purpose, and also requires that the operators be trained in their work; that the applicant, with his equipment and with his helpers or employees, is qualified to render this service and to contribute materially to public need and to the safety of traffic upon the highways.

In view of the evidence and the law applicable, the Commission concludes that the applicant has satisfied the burden of proof required by statute and that the application, as specified herein, should be granted.

The testimony leads to the conclusion that there is considerable movement of mobile homes and that there is no adequate service for transportation available in the area for which authority is here sought; that the very nature of mobile homes indicates, for the most part, that the same is subject to and will be, from time to time, moved from place to place, and that its owner-occupant may very well want to move from one end of the State to the other, from the mountains to the seashore, from the Virginia line to the South Carolina line; and that such persons should not be required to seek out or wait for a distant authorized service, but should be able to use a service readily and locally available, and that the protestant here declined to afford service in the area in question until application in

this case was filed by the applicant, at which time they rushed in to supply the local needs, too late with too little.

It is of interest to note that other national mobile home carriers with statewide intrastate authority, doing business in the area involved in this application did not file protests and did not appear in opposition to the application, and neither did other local movers holding such authority.

We further conclude that the protestant cannot hold its authority to the exclusion of others and not render the service that the public needs and have its protest sustained by the establishment of service, at a time when it would appear that the reason for such service being established was to effectively block others from securing the right to be of service. It seems quite plausible to assume that had adequate service been available, the applicant here would not have been receiving numerous telephone calls for service. A situation of this kind does not meet the public requirements. Finally, we conclude that the protestant in this case is primarily an interstate hauler, and, in fact, its manner of operation raises serious questions as to whether it conforms with the laws of this State and the rules and regulations of this Commission sufficient to entitle it to continue to hold its authority. Protestant states that it placed two (2) trucks in Goldsboro after this application was filed without any knowledge of public needs, but that it hopes there is a demand in the area, and yet the protestant's manager was unable to name the main cities and towns of the counties involved; actually, the protestant is leasing its franchise to others without Commission approval, and is not leasing trucks for it to operate under its authority. We note that the relationship is that of independent contractor and not that of lessor - lessee or employer - employee. The protestant's witness testified that he inspected the truck in Goldsboro within thirty (30) days, and that it was in proper condition, yet, the testimony indicates that at that very time, the truck involved was disabled and would not operate, and the witness was not even sure what the make and model of the same was. It may be that the Commission should initiate a full investigation into the matter to determine the legality of such an operation. Be that as it may, it is quite evident from the testimony that public convenience and necessity exists for the service sought by the applicant in this case, and the same will be granted.

IT IS, THEREFORE, ORDERED:

That Adolph Kornegay, d/b/a A. K. Motors, 919 North Breazeale Ave., Mount Olive, North Carolina, be, and he is, hereby granted authority as an irregular route common carrier to transport mobile homes in accordance with Exhibit B attached hereto.

IT IS FURTHER ORDERED:

That operations shall begin under this authority when the applicant has filed with the North Carolina Utilities Commission tariff schedules of rates and charges, adequate insurance coverage, and has otherwise complied with the rules and regulations of this Commission, all of which should be done within thirty (30) days from the date of this order.

IT IS FURTHER ORDERED:

That the authorization herein shall constitute a certificate until a formal certificate shall have been transmitted to the applicant authorizing transportation herein set out.

IT IS FURTHER ORDERED:

That Exemption Certificate No. E-1641, heretofore issued to Adolph Kornegay, d/b/a A. K. Motors, be, and the same is, hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of August, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1469

Adolph Kornegay
d/b/a A. K. Motors
919 North Breazeale Ave.
Mount Olive, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of Group 21, Mobile Homes, in the following territory:

All of Wayne, Duplin, Lenoir, Sampson and Johnston Counties, and from Mount Olive to and from Wilson, Raleigh and Wilmington, North Carolina.

DOCKET NO. T-263, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of James B. Alexander, d/b/a Alexander Trucking Company, South Main Street, Davidson, North Carolina, for intrastate authority and concurrent interstate or foreign commerce within the limits of the intrastate authority sought, said authority being Group I, General Commodities, in the territory described as between points and places in the Counties of Union, Mecklenburg, Cabarrus, Gaston, Cleveland, Lincoln, Rowan, Davie, Iredell, Wilkes, Surry, Guilford, Stanly, Davidson, Forsyth, Yadkin, Alexander, Catawba, Burke, Caldwell, Rutherford, Anson, Montgomery, Randolph and Alamance	)	RECOMMENDED ORDER

HEARD IN: The Commission's Hearing Room, Ruffin Building, Raleigh, North Carolina, on May 15, 1969, at 2:00 P.M.

BEFORE: Marvin R. Wooten, Hearing Commissioner

APPEARANCES:

For the Applicant:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina 27601

For the Protestant:

T. C. Clark
P. O. Box 832, Martinsville, Virginia
For: Virginia-Carolina Freight Lines, Inc.

WOOTEN, HEARING COMMISSIONER: This proceeding arises on application as set forth in the caption of this matter, wherein James B. Alexander, d/b/a Alexander Trucking Company, South Main Street, Davidson, North Carolina, seeks intrastate authority, and concurrent interstate or foreign commerce authority within the limits of the intrastate authority sought, said authority being Group I, General Commodities, in the territory described as between points and places in the Counties of Union, Mecklenburg, Cabarrus, Gaston, Cleveland, Lincoln, Rowan, Davie, Iredell, Wilkes, Surry, Guilford, Stanly, Davidson, Forsyth, Yadkin, Alexander, Catawba, Burke, Caldwell, Rutherford, Anson, Montgomery, Randolph and Alamance. The purposes of this application are, to remove the truckload limitation now a part of this carrier's authority, to add counties through which it now must operate to reach all parts of its present

operating authority, and to add certain counties which are in the trade areas of its present authority.

The matter was published in the Commission's Calendar of Hearings issued on March 20, 1969, and set for hearing.

The application for interstate authority, as set forth, is made under the provisions of Section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. [49 USCA 306(a)(6)].

Protests were filed and later withdrawn by Mr. Kenneth Wooten, Bailey, Dixon and Wooten, Attorneys at Law, for and on behalf of Frederickson Motor Express Corporation, and by Mr. T. D. Bunn, Hatch, Little, Bunn & Jones, Attorneys at Law, for and on behalf of Overnite Transportation Company and Thurston Motor Lines, Inc. Protest to the granting of interstate authority was filed by Mr. T. C. Clark, Executive Vice-President of Virginia-Carolina Freight Lines, Inc.

The record and evidence in support of the application tend to show, that notice was given to all interested persons engaged in intrastate commerce; that appropriate notice was forwarded to the Interstate Commerce Commission for publication and was published in the Federal Register under date of April 3, 1969, of the desire of the applicant to engage in transportation in interstate or foreign commerce within the limits of intrastate authority applied for, and that reasonable opportunity has been given any and all interested persons to protest and be heard. As stated above, Virginia-Carolina Freight Lines, Inc., in apt time, filed protest in opposition to the granting of the authority applied for and appeared and presented evidence in support of its protest.

The applicant presented evidence tending to show that under his present operating authority he is limited to truckload movements in eleven (11) central or piedmont counties of North Carolina; that movement of freight between the counties within his existing authority necessitates movement through and over eight (8) additional central or piedmont counties in which he does not now have authority to operate; that there are five (5) additional central or piedmont counties which are naturally and geographically related to the present service area of the applicant and those additional eight counties through which the applicant must now travel to serve his present authority; that there is a need for additional intrastate and interstate transportation authority for Group 1, General Commodities, in the area applied for in less-than-truckload movement; that the need for such additional authority and service embraces the counties of his present operation, plus the counties through which he must travel to reach the counties of his present operation, and five additional counties naturally embracing the trade area of the aforementioned counties; that he is a fit, willing and able person to perform the service applied for; that the applicant is

solvent and financially able to furnish adequate service on a continuing basis; that public convenience and necessity requires the proposed service in addition to existing authorized transportation service; and that the additional and extended authority herein applied for is needed in order to permit his trucking operation to continue from an economical standpoint.

The protestant contends and offered evidence tending to show that the granting of the authority applied for in this case, would vest the applicant with a competitive advantage in the territory involved, would result in new business for the applicant and would directly and naturally prejudice the present operating authority of the protestant, and would reduce the marketability of its certificate insofar as the applicant applied for interstate rights.

The applicant testified in his own behalf and presented fifteen (15) public witnesses in support thereof, who testified regarding transportation needs in the territory applied for from various industrial, educational, jobbing, manufacturing and distributing shippers and receivers.

The evidence for the protestant was presented by T. C. Clark, Executive Vice-President of Virginia-Carolina Freight Lines, Inc., who presented, among other things, a review and summary of the operating authority of the protestant and its equipment, facilities and ability to serve the area interstate in the territory applied for.

Upon the evidence adduced and after consideration of the entire record as a whole, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. Applicant, James B. Alexander, d/b/a Alexander Trucking Company, is an individual operating under the style and name above set forth and is duly authorized as an irregular route common carrier of general commodities in truckload lots in the counties of Surry, Wilkes, Cleveland, Lincoln, Gaston, Iredell, Mecklenburg, Davie, Rowan, Cabarrus, Union and Guilford.

2. In order for the applicant to service his present authority, he must travel through the Counties of Yadkin, Forsyth, Davidson, Stanly, Catawba, Burke, Caldwell and Alexander.

3. Adjacent to and contiguous with the counties referred to in 1 and 2 above, which form a part of the natural and business community of the same, are the counties of Alamance, Randolph, Montgomery, Anson and Rutherford.

4. That the present territorial and truckload limitations placed upon the applicant's motor carrier

authority are not in the best interest of the applicant or the shipping and receiving public.

5. That the Protestant, Virginia-Carolina Freight Lines, Inc., has authority from the Interstate Commerce Commission to operate in interstate transportation of general commodities in the area and counties involved in this application.

6. That the present operations of the applicant, with the present territorial and truckload limitations, are such as to render the transportation service operated by him unfeasible from a financial standpoint and that the public interest requires the changes applied for in the application here in order that the needed service may be provided and the present service of this carrier continued.

7. That public convenience and necessity requires the proposed service in addition to existing authorized transportation service; that the applicant is fit, willing and able to properly perform the proposed service, and that the applicant is solvent and financially able to furnish adequate service on a continuing basis.

8. The authority requested will not result in any unfair or unreasonable competitive advantage to Alexander. It will, however, result in an improvement in the operating authority of the applicant which is needed and necessary in order that Alexander may continue his present highway transportation service.

CONCLUSIONS

G.S. 62-262(e) requires the applicant to carry the burden of proof to show to the satisfaction of the Commission that:

1. 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.

The doctrine of convenience and necessity is a relative or elastic theory. The facts in each case must be separately considered and from those facts it must be determined whether public convenience and necessity requires a given service to be performed or dispensed with.

Necessity means reasonably necessary and not absolutely imperative.

Any service or improvement which is desirable for the public welfare and highly important to the public

convenience may be properly regarded as necessary. State v. Carolina Coach Co., 206 N.C. 43, (1963).

G.S. 62-259 provides:

"...it is declared the 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 the 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; and 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."

1. That the applicant has sustained and carried the burden of proof placed upon him by the provisions of G.S. 62-262(e).

2. That the declared policy of the State of North Carolina to preserve and continue all motor carrier transportation services now afforded this State is in accord with, and requires or calls for, the granting of the authority here sought.

3. That the present authority of the applicant is not in the public interest, in view of its territorial and truckload limitations which have the natural effect of restricting his ability to serve the people in the counties in which it must travel and the counties which naturally and eocnomically relate to the counties embracing his present authority.

4. No convincing reason has been made to appear why Alexander should not be permitted the additional territory applied for and a striking of the truckload limitation for the transportation of general commodities in both intrastate and in interstate and foreign commerce within the scope of his intrastate authority, but, on the contrary, it appears that the same should be granted for the reason, in addition to others hereinabove found, that the territory as applied for would afford an improvement in the service and service area of the applicant and thereby the ability of the applicant to continue his present highway transportation service, and afford logical and territorial restrictions in an area naturally and geographically linked and tied together as a modest trade area.

Accordingly, IT IS ORDERED:

1. That the application in this docket be, and it is, hereby approved and the Applicant, James B. Alexander, d/b/a Alexander Trucking Company, South Main Street, Davidson, North Carolina, be, and he is, hereby granted such additional motor freight common carrier authority in accordance with Exhibit B hereto attached.

2. That applicant be, and he 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.

3. This order shall operate as all necessary evidence of the authority herein granted pending amendment of the applicant's certificate by the Chief Clerk of this Commission pursuant hereto.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-263 SUB 5

James B. Alexander, d/b/a
Alexander Trucking Company
South Main Street
Davidson, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

The transportation of Group 1, General Commodities, except those requiring special equipment, over irregular routes between points and places within the following counties: Union, Mecklenburg, Cabarrus, Gaston, Cleveland, Lincoln, Rowan, Davie, Iredell, Wilkes, Surry, Guilford, Stanly, Davidson, Forsyth, Yadkin, Alexander, Catawba, Burke, Caldwell, Rutherford, Anson, Montgomery, Randolph, and Alamance.

DOCKET NO. T-1480

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Allstate Mobile Home Service, Inc.,) ORDER
1116 Charmain Street, Fayetteville, North Carolina)

HEARD IN: The Hearing Room of the Commission, 1 West Morgan Street, Raleigh, North Carolina, on November 13, 1969, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott and Commissioners John W. McDevitt and Marvin R. Wooten (Presiding)

APPEARANCES:

For the Applicant:

Ted R. Reynolds
Reynolds & Farmer
Attorneys at Law
316 W. Edenton Street
Box 268, Raleigh, North Carolina

For the Protestants:

Charles B. Morris, Jr.
Jordan, Morris & Hoke
Attorneys at Law
P. O. Box 1606, Raleigh, North Carolina
For: National Trailer Convoy, Inc.

Thomas S. Harrington
Harrington & Stultz
Attorneys at Law
Box 535, Eden, North Carolina
For: Transit Homes, Inc.
Morgan Drive Away, Inc.

WOOTEN, COMMISSIONER: Allstate Mobile Home Service, Inc., 1116 Charmain Street, Fayetteville, North Carolina, filed its application with this Commission on September 8, 1969, seeking irregular route common carrier authority for the transportation of mobile homes in a territory described as "State of North Carolina".

Notice of said application was given in the Commission's Calendar of Hearings issued on September 15, 1969, setting this matter for hearing on Thursday, November 13, 1969, at 10:00 A.M. Subsequently thereto, protests were filed in apt time by National Trailer Convoy, Inc., through Attorney Charles B. Morris, Jr., and by Morgan Drive Away, Inc., and Transit Homes, Inc., through Attorney Thomas S. Harrington. At the call of this case for hearing, the applicant moved the Commission for authority to amend its application amending the commodity description under Group 21, "Other Specific Commodities", and amending its territorial description on Page 3 under Exhibit B, from "mobile homes", and "State of North Carolina", respectively to read as follows:

"Mobile homes from within the city limits of Fayetteville to any point within a 50-mile radius of Fayetteville, and

from any point within a 50-mile radius of the limits of Fayetteville to any point within the city limits of Fayetteville, and repossessed or damaged mobile homes when the same are moved from any point within the State of North Carolina to the City of Fayetteville, and return to the point of origin for the same owner when such movement to the City of Fayetteville is for the purpose of repair or storage."

The motion of the applicant to amend its application was allowed by the Commission without objection.

Upon the action of the Commission in allowing the motion to amend by the applicant, the Protestants, National Trailer Convoy, Inc., Transit Homes, Inc., and Morgan Drive Away, Inc., individually moved the Commission that they be allowed to withdraw their protests in this case in the light of the amendment allowed. The Commission allowed each of the protestants to withdraw their protests. The applicant then proceeded to present its case.

The applicant offered the testimony of eight witnesses and certain documentary evidence in support of its amended application.

Delmer D. Autry, President of the applicant corporation, testified along with Joseph T. Strickland, 3509 Raeford Road, Fayetteville, who is a mobile home dealer; Robert Bloh, of 3936 Wilmont Drive, Fayetteville, North Carolina, who represents Universal Acceptance Corporation, which organization writes physical damage insurance on mobile homes; Edward J. Smith, of 911 Bragg Boulevard, Fayetteville, North Carolina, who is an insurance adjuster employed by Emmco Insurance Company, which company writes physical damage insurance on mobile home trailers; O. T. Hester, Sumter, South Carolina, representing Delta Corporation of America, which is a bank service corporation serving banks in the area of mobile home financing; Esco Faircloth, 227 Wildwood Drive, Fayetteville, North Carolina, who is a retail sales manager in the mobile home business in the Fayetteville area; Thomas Roy Gladden, 6054 Chesapeake Road, Fayetteville, North Carolina, and is general manager of North Carolina Mobile Home Sales and is in the mobile home service business in the Fayetteville, North Carolina, area; and Rodney B. Sawyer, Raleigh, North Carolina, who is district manager of the Foremost Insurance Company, which said company writes physical damage insurance coverage for mobile homes.

All of the witnesses above referred to testified in substance to like facts and circumstances which are hereinafter summarized.

The uncontradicted evidence in this case indicates that the Applicant, Allstate Mobile Home Service, Inc., owns and operates a mobile home repair service in Fayetteville, North Carolina; that the said applicant has been in this business

for approximately three years and owns real estate, buildings, and equipment necessary and appropriate to the mobile home repair business; that the applicant has fifteen full time employees, including carpenters, metal men and service men; that the applicant owns the equipment necessary to carry out the business of this application, if granted; that the applicant holds a manufacturing license for mobile homes which covers the manufacture, service and repair of the same; that the applicant is a North Carolina corporation; that the applicant corporation serves insurance companies, individuals, and dealers in performing repair work on damaged mobile homes; that the present common carrier service available to the customers of the applicant is non-existent and is inadequate to fill the needs of the insurance companies, dealers and individuals for the movement of trailers from their damaged location to the applicant's repair business and return; that the applicant is fit, willing and able to perform the service for which authority is hereby sought, financially and through experience; that the services for which authority is here sought are not being afforded by anyone insofar as the applicant's repair operations are concerned; that there is a large demand and need for this service; that the mobile home dealers in the Fayetteville area need additional service, in addition to that available, for the movement and installation of mobile homes sold within a fifty mile radius of Fayetteville into and out of Fayetteville; that in the overwhelming majority of repossession cases, the mobile homes must be stored and/or repaired subsequent to repossession, and that companies financing such mobile homes need additional service in the movement, storage and repair of the same; that the services for which the applicant seeks authority here are needed in the area applied for; that all of the witnesses and their companies need the services of this application as applied for and that if the same is granted, they will utilize such service to the fullest extent; that the applicant and its personnel bear a good business reputation; that other national carriers in the area refuse in many instances to afford the type of service being applied for here; that the applicant has all of the equipment necessary, proper, and appropriate for accomplishing the services for which authority is here sought, and that there is a public need, generally for the services which the applicant proposes in the territory here involved.

From the evidence presented, a portion of which is set out, the Commission makes the following

FINDINGS OF FACT

1. That the applicant owns the necessary equipment for the movement of mobile house trailers.

2. That the applicant, its officers and employees, are experienced in the movement of mobile house trailers and use

of equipment for the hauling thereof for which authority is sought.

3. That the applicant is now engaged in limited movement of house trailers as a private carrier and has had experience through such movement.

4. That the applicant is fit, willing and financially and otherwise qualified and able to perform adequate service as proposed in the application, and to continue such service as long as the need therefor exists.

5. That the public convenience and necessity requires the service of the applicant for the hauling of mobile homes or house trailers, as applied for, to the extent of such application, in addition to other existing authorized transportation service.

CONCLUSIONS

In view of the applicable law in this case and the evidence presented, the Commission concludes that the applicant has satisfied the burden of proof as required by statute and that its application, as amended, should be approved and granted.

It is further concluded, in the light of the withdrawal of the protests by the protestants, and all of the evidence presented, that there is a need for additional mobile home common carrier authority within the limits of the application in this case in addition to that presently available through existing authorized service.

(1) IT IS, THEREFORE, ORDERED, That the Applicant, Allstate Mobile Home Service, Inc., 1116 Charmain Street, Fayetteville, North Carolina, be, and it is, hereby granted authority as an irregular route common carrier to transport mobile homes in accordance with Exhibit B attached hereto.

(2) IT IS FURTHER ORDERED, That operations shall begin under this authority when the applicant has filed with the North Carolina Utilities Commission tariff schedules of rates and charges, adequate insurance coverage, and has otherwise complied with the rules and regulations of this Commission, all of which should be done within thirty (30) days from the effective date of this order.

(3) IT IS FINALLY ORDERED, That the authorization herein shall constitute a certificate until formal certificate shall have been transmitted to the applicant authorizing transportation herein set out.

ISSUED BY ORDER OF THE COMMISSION.
This the 18th day of November, 1969.

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

DOCKET NO. T-1480

Allstate Mobile Home Service, Inc.
1116 Charmain Street
Fayetteville, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

(1) Transportation of Group 21, Mobile Homes, in the following territory:

From within the city limits of Fayetteville to any point within a 50-mile radius of Fayetteville and from any point within a 50-mile radius of Fayetteville to any point within the city limits of Fayetteville.

(2) Transportation of repossessed and/or damaged mobile homes in the following territory:

From any point within the State of North Carolina to the City of Fayetteville and return to the point of origin for the same owner when such movement to the City of Fayetteville is for the purpose of repair or storage.

DOCKET NO. T-1409, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Coastal Truckways, Inc., to transport Group 21, Fresh poultry and turkeys, dressed, frozen, iced or warm, between points and places in Wake, Chatham, Duplin, Durham, Moore, Guilford and Alamance Counties and from points and places in said counties to points and places throughout the State of North Carolina) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on September 19, 1969, at 10 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (Presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

William Joslin, Esq.
Purrington, Joslin, Culbertson & Sedberry
Attorneys at Law
P. O. Box 466, Raleigh, North Carolina

No Protestants

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission by Coastal Truckways, Inc., on July 10, 1969, wherein it seeks authority to transport by motor vehicle for compensation over irregular routes within the territory hereinafter specified the following described commodities: Group 21, Fresh poultry and turkeys, dressed, frozen, iced or warm. Notice of the filing of said application was published in the Calendars of Hearings issued by the Commission on July 18, 1969, and August 4, 1969, in which calendars the application was set for hearing on Friday, September 19, 1969, at 10 o'clock a.m. The hearing was held at the time and place specified in the notice, at which hearing the applicant appeared and presented evidence in support of the application.

FINDINGS OF FACT

Based upon evidence adduced at the hearing the Commission makes the following findings of fact:

1. The applicant, Coastal Truckways, Inc., is a North Carolina corporation with its principal office in Raleigh, North Carolina, and currently holds Certificate No. C-943 issued by the North Carolina Utilities Commission under which it is authorized to transport poultry products from points and places in Chatham County, North Carolina, to points and places throughout the State.

2. By its application in this matter, the applicant seeks authority to transport poultry products between points and places in Wake, Chatham, Duplin, Durham, Moore, Guilford and Alamance Counties and from points and places in said counties to points and places throughout the State of North Carolina.

3. The processors of poultry products in Wake, Chatham, Duplin, Durham, Moore, Guilford and Alamance Counties, as well as in other places in North Carolina, have experienced difficulty in obtaining intrastate transportation of their products in North Carolina. The Executive Secretary of the North Carolina Poultry Federation stated that in 1967 the poultry processors in North Carolina shipped approximately 5,000,000 broilers per week and that the processing and sale of this poultry cannot be accomplished without readily available motor carrier service.

4. The applicant now owns and has available for its interstate and intrastate operations 26 truck tractors and 62 trailers, and it has on order 20 additional trailers for such use. All of these trailers are insulated van type trailers suitable for transporting iced poultry products with 15 of the units equipped with refrigeration units.

5. There is a demand for the transportation service which the applicant proposes to provide which is not being met by the existing authorized carriers, and the public convenience and necessity requires that the applicant be authorized to provide said additional service.

CONCLUSIONS

It is concluded that the applicant has borne the burden of showing that public convenience and necessity requires the transportation service which it proposes to furnish in addition to existing authorized transportation services and that the applicant should be granted a certificate of public convenience and necessity for the furnishing of said transportation service.

IT IS, THEREFORE, ORDERED that the application of Coastal Truckways, Inc., herein be granted and that its Certificate No. C-943 be amended as specified in Exhibit B hereto attached.

IT IS FURTHER ORDERED that the applicant file with this Commission schedule of rates and charges and otherwise comply with the rules and regulations of this Commission and institute operations under the authority granted herein within 30 days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of September, 1969.

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

DOCKET NO. T-1409 SUB 2

Coastal Truckways, Inc.
Durham Highway
Raleigh, North Carolina

Irregular Route Common Carrier of Property

EXHIBIT B

Transportation of Group 21, Fresh poultry and turkeys, dressed, frozen, iced or warm, between points and places in Wake, Chatham, Duplin, Durham, Moore, Guilford and Alamance Counties and from points and places in said counties to points and places throughout the State of North Carolina.

DOCKET NO. T-1464

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Country Enterprises, Inc.,) RECOMMENDED
Route 2, Hickory, North Carolina 28601) ORDER

HEARD IN: City Council Room, City Hall, Third Street, N.W., Hickory, North Carolina, on July 25, 1969, at 9:30 A.M.

BEFORE: Marvin R. Wooten, Hearing Commissioner

APPEARANCES:

For the Applicant:

E. Murray Tate, Jr.
Tate & Weathers
Attorneys at Law
P. O. Box 7, Hickory, North Carolina

For the Protestants:

Thomas S. Harrington
Vaughn & Harrington
Attorneys at Law
Box 535, Eden, North Carolina
For: Morgan Drive Away, Inc.

Charles B. Morris, Jr.
Jordan, Morris & Hoke
Attorneys at Law
Box 1606, Raleigh, North Carolina
For: National Trailer Convoy, Inc.

Ralph Davis
Attorney at Law
Box 426, North Wilkesboro, North Carolina
For: Sam Eller, d/b/a Sam D. Eller Motor Carrier

WOOTEN, HEARING COMMISSIONER: Country Enterprises, Inc. (Applicant), Route 2, Hickory, North Carolina 28601, filed its application with this Commission on May 1, 1969, seeking irregular route common carrier authority for the transportation of mobile homes or houses or house trailers or portable buildings with wheeled undercarriages, in a territory described as "to and from and between all points and places within the whole area of the State of North Carolina, state-wide, without limitation".

Notice of said application was given in the Commission's Calendar of Hearings issued on May 8, 1969, setting this matter for hearing Thursday, July 17, 1969, at 9:30 A.M. Subsequent thereto protests were filed in apt time by

National Trailer Convoy, Inc., on May 30, 1969; through Attorney Charles B. Morris; by Morgan Drive Away, Inc., on June 4, 1969, through Attorney Earl Vaughn; and by Sam Eller, d/b/a Sam D. Eller Motor Carrier, Box 8, Sparta Road, North Wilkesboro, North Carolina, on July 3, 1969. Subsequent to the publication of this case in the Commission's Calendar on May 8, 1969, and for good cause shown, the Commission issued its notice continuing hearing in this case and setting the matter for hearing on July 25, 1969, at 9:30 A.M. in the City Council Room, City Hall, Third Street, N. W., Hickory, North Carolina, said notice being issued on June 9, 1969.

At the hearing, the applicant offered the testimony of four (4) witnesses, including its President and principal stockholder, Monroe Isenhour. The testimony of Mr. Isenhour tends to show that the applicant had been engaged in the business of mobile home sales in Catawba County for approximately two and one-half years prior to filing its application in this case; that during that period of time, it had been engaged in the business of transporting mobile home trailers and similar equipment in connection with its private sales business and also had been in the business of transporting mobile home trailers and similar equipment for several years for others for hire without proper authority; that the applicant continued to operate without proper authority until several months ago when it was advised that it was operating illegally; that immediately, the applicant stopped hauling house trailers for others for hire but has continued hauling same in connection with its private business; that the applicant owns certain equipment and its officers and employees are experienced in the transportation of mobile home trailers and similar equipment; that in addition to being in the business of selling and transporting mobile home trailers, the applicant's chief stockholder and president owns and operates a large grocery store and gift shop next to its trailer sales business; that Country Enterprises, Inc., is a North Carolina Corporation; that all of the stock in said corporation is owned by its president and his immediate family; that it owns a 1968 International Tractor, a 1963 International Tractor, a Chevrolet Pickup Truck and a 1963 Ford Station Wagon, which equipment is designed, modified and adapted for the purpose of hauling house trailers and which is equipped with the requisite equipment and safety devices for such operation; that the applicant, its officers and employees are experienced in the operation of mobile home moving equipment; that the applicant owns the necessary equipment to perform the operation for which authority is sought; that the mobile home business is increasing very rapidly in the Hickory area, which is located in Catawba County, and in the surrounding counties; that the applicant has received many telephone calls and demands from members of the general public in Catawba and surrounding counties for the movement of mobile homes; that the applicant receives four or five such calls a week; that there are many mobile home parks located in the Hickory area and surrounding counties; that

there are many mobile house trailers located on individual lots throughout the general area; that there are two other mobile home carriers located in Catawba and immediate surrounding counties of which the applicant has knowledge, none of whom protested the application in this case; that the mobile home business and the movement of mobile homes is increasing rapidly; that the applicant has received requests for the movement of mobile homes throughout a wide area of the State and particularly in Catawba and surrounding counties; that the applicant has received calls from such distant points as Greensboro and Raleigh; that many people who have made demands upon the applicant for service in the movement of house trailers have had to wait as much as thirty (30) days in order to get the same moved; that finance companies have called upon the applicant for assistance in the movement of mobile homes in various sections of the State; that the applicant has been called upon by finance companies to move repossessed trailers from distant areas such as Ohio and South Carolina to this State; that the need for the transportation of mobile homes is increasing as the same relates to the increase in the number of telephone calls which the applicant has received; that the number of calls to the applicant is increasing rapidly even though it has never done any advertising for the movement of mobile homes and very little in connection with the sale of the same; that the national average during the last year for the increase in sales of mobile homes is about 51%, and that North Carolina's figure, though not known, would be considerable; that 25% of the applicant's sales are made in Catawba County and that the majority of the remainder of its sales are made to purchasers in Alexander, Caldwell, Burke, McDowell and Mitchell Counties; that the applicant has delivered mobile homes to Charlotte, Gastonia, Mooresville, Mocksville and other areas of the State; that twenty-five to thirty percent of the calls which the applicant receives for the movement of house trailers requested service for movement out of the Hickory area to some other area of the State, and that the number of mobile home agencies in Catawba County doubled in the last twelve months.

The applicant presented Everette A. Houston, an officer of the Northwestern Bank in Hickory, who testified to the applicant's financial solvency, general character and reputation, and that the parties stipulate without further testimony regarding the applicant's financial solvency.

E. J. Tyson, supervisor of mobile home sales development program for Duke Power Company, testified on behalf of the applicant that he works with manufacturers, dealers and customers promoting the sale of electrical energy for his employer; that according to the national figures over 2200 mobile homes were shipped into North Carolina in May, 1969; that so far, for the first six months in 1969, Duke Power connected up over 3300 mobile homes in North and South Carolina with approximately 1700 to 1800 of these being in the State of North Carolina; that these connections made by

Duke Power Company in North Carolina were in the Duke Power Company service area only which serves approximately one-third of this State; that the trend at present shows an increase in electrical connections in newly placed or moved mobile homes between eighteen to twenty percent; that there are thirteen or fourteen manufacturers of mobile homes located in North Carolina; that North Carolina is generally regarded as ranging third in mobile home sales and connections in the nation; that the new connections made by Duke Power Company in their service areas in North Carolina shows that 29% of such residential connections are on mobile homes, and that the percentage of new connections in the service areas of other electrical suppliers is presently running higher than 29%.

The last witness presented by the applicant was William E. Tuller who is collection manager for General Electric Credit Corporation operating out of Charlotte, North Carolina, who testified that the majority of their business in this State was the financing of mobile homes; that their business is pretty well distributed throughout the State; that his company has used authorized franchised carriers in the State for the movement of repossessed mobile homes; that his company has also used the service of the applicant in this case before they discovered that the applicant was not authorized to do such business; that his experience with the applicant in the movement of mobile homes had been quite satisfactory; that his finance company had had some difficulties in the past with national carriers on claim services; that his company has eight to ten mobile homes repossessions per month within this State; that his company has used a number of local and national movers and that they would like to also have available to them the service of the applicant in this case.

The Protestants, Morgan Drive Away, Inc., and National Trailer Convoy, Inc., presented testimony through their district managers, Ernest J. Cournaya and Ray Aebischer, respectively, whose testimony was similar, and briefly stated, tended to show that they are nationwide authorized movers of trailer units or mobile homes; that they operate in practically all of the states in the Union; that they hold statewide intrastate authority in North Carolina; that they do not own any trucks whatsoever for the movement of house trailers in this State, and own little property used and useful in the transportation service used in this State; that they buy operating licenses for motor vehicles which they have under lease; that they lease from an individual in North Carolina a motor vehicle which must be equipped and designed for hauling mobile homes; that the lease is ordinarily made with the understanding that the owner of the vehicle under lease will actually operate the vehicle; that under the lease agreement, the owner of the leased vehicle ordinarily operates the business and does all that is required to move the unit and collects for the service; that the protestants retain or receive a certain percentage of the revenue made and the driver retains or receives a

certain percentage of the same; that in most instances they establish terminals at points where business seems more readily available; that terminal managers are paid an hourly rate and are usually the wife of a leased vehicle owner and that the terminal is generally located in her home; that the lessees exercise no control whatever over the use and operation of the leased vehicles; that the owner of the vehicle operates the business in many instances, makes the trip, collects the revenue, and simply turns into the lessees a percentage of the revenue received from operating on the lessees' rights; that at the time of the hearing, Morgan Drive Away, Inc., had forty-eight trucks under lease in North Carolina; that Morgan Drive Away, Inc., has terminals in Charlotte, Cary, Greensboro, Goldsboro, Jacksonville and Fayetteville, North Carolina; that Morgan intends to establish a terminal in Hickory in the near future; that two weeks prior to the hearing in this case and while the case was pending, Morgan leased and moved a truck and driver into the Hickory area, but does not know where he is living, in order to serve the needs in that area; that Protestant, National Trailer Convoy, Inc., has eleven trucks in this State; that National has terminals located in Jacksonville, Goldsboro, Fayetteville and Charlotte, North Carolina; that under their lease agreements, the lessees furnish insurance coverage while the truck is actually being used in making a movement of a house trailer and at other times the lessor has to provide his own insurance coverage; that they are engaged in both inter and intrastate movements of house trailers, and that they always have trucks available for service in any area at any time in this State.

The Protestant, Sam Eller, d/b/a Sam D. Eller Motor Carrier, testified that he is the owner of Common Carrier Certificate No. C-910 which grants him irregular route authority for the movement of mobile homes in and between points and places within Wilkes, Alleghany and Ashe Counties and statewide into and out of said counties; that he is able to serve the needs of the counties of Wilkes, Alleghany and Ashe, and statewide into and out of said counties; that no further service is needed in his area of operation; that he has been able to meet all of the needs to the date of the hearing in that area and that he is ready, willing and able to purchase such additional equipment as may be needed to serve any needs in his area of operation as the same may in the future occur.

From the evidence presented, a portion of which is set out above, the Commission makes the following

FINDINGS OF FACT

1. That the applicant owns the necessary equipment for the movement of house trailers.

2. That the applicant, its officers and employees, are experienced in the movement of house trailers and in the use

of equipment for the hauling thereof for which authority is sought.

3. That the applicant is now engaged in the movement of house trailers as a private carrier and has had experience in movement for hire, though such experience was acquired without authority.

4. That the applicant is fit, willing and financially and otherwise qualified and able to properly perform adequate service as proposed in the application, to the extent herein approved, and to continue such service as long as the need therefor exists.

5. That the public convenience and necessity requires the service of the applicant for the hauling of mobile homes or house trailers as applied for, to the extent herein approved, in addition to other existing authorized transportation service.

CONCLUSIONS

It appears from the evidence that the movement of house trailers or mobile homes from one area to another requires the use of equipment specifically designed and modified for that purpose, and also requires that the operators be trained in their work; that the need for the transportation or movement of mobile homes is substantial and is increasing and will probably continue to increase; that the applicant and its personnel are qualified to render the service for the movement of mobile homes and to materially contribute to the needs of the public and to safety of traffic upon the highways.

In view of the law applicable in this case and the evidence presented, the Commission concludes that the applicant has satisfied the burden of proof required by statute and that a portion of the application, as hereinafter specified, should be approved and granted.

All of the testimony for both the applicant and protestants leads to the conclusion that there is a considerable movement of mobile homes, and the testimony offered for the applicant leads to the conclusion, in addition thereto, that there is not sufficient or adequate service for the transportation of mobile homes available in the immediate area of Hickory and to and from that area into and out of other sections of the State; that the very nature of mobile homes, for the most part, indicates that the same is subject to and will be, from time to time, moved from place to place, and that its owner-occupant may very well desire to move into or out of Catawba and surrounding counties to and from one end of this State to the other, from and to the mountains, the seashore, and from and to points and places located between the States of Virginia and South Carolina.

We further conclude that the citizens of North Carolina should not be required to seek out or wait for a distant authorized service but should be able to use a service readily and locally available. The evidence further leads the Commission to the conclusion that two of the protestants have not offered service in Hickory and some of the surrounding counties and that one of the protestants is attempting to afford such service only after the application was filed in this case.

It is of interest to note that other national mobile home carriers with statewide intrastate authority, doing business in this State, and other local intrastate mobile home carriers located in the general area of Hickory did not file protests and did not appear in opposition to the application.

The large number of new electrical connections made by Duke Power Company in one-third of this State indicates a very large movement of mobile homes, which movement is steadily and rapidly increasing, and we, therefore, conclude that the number of trucks available by the protestant carriers and others is obviously insufficient to meet the public needs and demands in the area herein approved as well as others.

We further conclude that the Protestants, National Trailer Convoy, Inc., and Morgan Drive Away, Inc., cannot hold their authority to the exclusion of others and not render the service that the public needs and have its protests sustained by the establishment of service, by only one of them, at a time when it would appear that the reason for the service being established was to effectively block others from securing the right to be of service. It is quite plausible to assume that had adequate service been available, the applicant would not have been receiving numerous requests for service. A situation of this kind does not meet the public requirements. The evidence indicates and we conclude that the Protestants, Morgan and National, are nationwide carriers, and, in fact, their manner of operation raises serious questions as to whether they conform with the laws of this State and the rules and regulations of this Commission sufficient to entitle them to continue to hold their authorities. Actually, the protestants are leasing their franchises, or a portion thereof, to others without Commission approval, and they are not leasing trucks for them to operate under their authority. We note that the relationship is that of an independent contractor and not that of lessor-lessee or employer-employee. It may be that the Commission should initiate a full investigation into the matter to determine the legality of such an operation. Be that as it may, it is quite evident from the testimony that public convenience and necessity exists for service sought by the applicant, to the extent herein approved, and the same will be granted.

We finally conclude that the applicant has failed to establish a public need for service into or out of the service area of the Protestant, Sam Eller, d/b/a Sam D. Eller Motor Carrier.

IT IS, THEREFORE, ORDERED:

That the Applicant, Country Enterprises, Inc., Route 2, Hickory, North Carolina 28601, be, and it is, hereby granted authority as an irregular route common carrier to transport mobile homes in accordance with Exhibit B attached hereto.

IT IS FURTHER ORDERED:

That the application in all other respects be, and the same is, hereby denied.

IT IS FURTHER ORDERED:

That operations shall begin under this authority when the applicant has filed with the North Carolina Utilities Commission tariff schedules of rates and charges, adequate insurance coverage, and has otherwise complied with the rules and regulations of this Commission, all of which should be done within thirty (30) days from the effective date of this order.

IT IS FURTHER ORDERED:

That the authorization herein shall constitute a certificate until formal certificate shall have been transmitted to the applicant authorizing transportation herein set out.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of August, 1969.

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

DOCKET NO. T-1465 Country Enterprises, Inc.
Route 2
Hickory, North Carolina

<u>Irregular Route Common Carrier Authority</u>

EXHIBIT B Transportation of Group 21, Mobile Homes or Houses or House Trailers or Portable Buildings with Wheeled Under-Carriages, in the following territory:

(1) Between points and places in Catawba, Alexander, Caldwell, Burke and McDowell Counties.

(2) From points and places in Catawba, Alexander, Caldwell, Burke and McDowell Counties to all points and places within the State of North Carolina, except to points and places in Wilkes, Alleghany and Ashe Counties.

(3) From all points and places in the State of North Carolina, except from Wilkes, Alleghany and Ashe Counties, to points and places in Catawba, Alexander, Caldwell, Burke and McDowell Counties.

DOCKET NO. T-1452

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Bruce V. Curtis, d/b/a Bruce Curtis Trucking Company)
(formerly Curtis and Turner Trucking Co., Inc.);) ORDER
614 West Main Street; Hazelwood, North Carolina)

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on April 23, 1969, at 10 a.m.

BEFORE: Commissioners Clawson L. Williams, Jr., Presiding, Marvin R. Wooten, and M. Alexander Biggs, Jr.

APPEARANCES:

For the Applicant:

James M. Kimzey
Joyner, Moore & Howison
Attorneys at Law
P. O. Box 109, Raleigh, North Carolina

WILLIAMS, COMMISSIONER: By application filed with the Commission on February 19, 1969, Bruce V. Curtis, d/b/a Bruce Curtis Trucking Company (Applicant), 614 West Main Street, Hazelwood, North Carolina, seeks an irregular route common carrier certificate to engage in the transportation of Group 6, Agricultural Commodities, Group 18, Dry Fertilizer and Dry Fertilizer Materials, and Group 21, Pallets of whatever construction, used in holding materials for storage, handling, or transportation, paper products and rubber products, in the areas of North Carolina included in, and located to the west of Stokes, Forsyth, Davidson, Montgomery and Richmond Counties as shown on Exhibit B hereto attached. Notice of said application, along with the time and place of hearing was given in the Commission's Calendar of Hearings issued on February 21, 1969.

Within apt time, protest and motions to intervene were filed by Blue Ridge Trucking Company, Asheville, North Carolina, Fredrickson Motor Express, P. O. Box 21098, Charlotte, North Carolina 28206, Overnite Transportation Company of Richmond, Virginia, and Thurston Motor Lines, Inc., of Charlotte, North Carolina. On April 18, 1969, the applicant filed with the Commission request that his application be amended to delete the request for authority to carry rubber products and on April 21, 1969, the applicant filed with the Commission request that his application be amended to delete the request for authority to carry paper products. Applicant's request was granted.

On April 21 and 22, 1969, attorneys for the protestants, requested that they be allowed to withdraw their protests in view of the applicant's request to amend his application and delete therefrom paper products and rubber products. Protestants were allowed to withdraw their protests and interventions.

Hearing was held at the time and place shown in the caption and the applicant was present and represented by counsel as shown in the caption.

Applicant offered evidence tending to show that he resides in Hazelwood, North Carolina, and is now engaged in the business of transporting exempt commodities in the areas of North Carolina included in and located to the west of Stokes, Forsyth, Davidson, Montgomery and Richmond Counties, the same area named in the application filed by the applicant, and in which he now seeks authority to transport Group 6, Agricultural Commodities, and Group 8, Dry Fertilizer and Dry Fertilizer Materials; that applicant's terminal is located at Hazelwood, North Carolina, near several apple and feed producers and the facilities of Western North Carolina Palette and Forest Products Company; that these customers of the applicant have substantial need for shipment within the territory sought to be served; that said shipments need to be made on short notice; that applicant is ready, willing and able to furnish such shippers with the necessary hauling equipment within a very short period of time due to the proximity of the applicant's terminal to the location of said shippers; that the present service available to said shippers is not as prompt as the service offered by applicant for the reason that the rolling equipment which they need must be sent to them from greater distances than applicant's terminal.

Applicant's evidence further tends to show that applicant has the equipment and personnel to provide the services which said shippers require and is ready, willing and financially able to provide the requested service on a continuing basis.

Upon consideration of the application and the evidence adduced at the hearing the Commission makes the following

FINDINGS OF FACT

1. That the applicant is fit, ready, willing and able, financially and otherwise, to properly perform the services proposed by the amended application.

2. That public convenience and necessity requires the proposed services in addition to existing authorized transportation service, where applicant presently operates as an exempt carrier.

3. That the applicant is solvent and is financially able to provide the proposed services in a satisfactory manner on a continuing basis.

CONCLUSIONS

Based upon the record in this docket, it is the conclusion of the Commission that the applicant has carried the burden of proof required for the granting of the authority sought and such authority should be granted. There was sufficient evidence presented by the applicant that public convenience and necessity requires the authority sought by the applicant in his amended application.

There was also ample evidence that applicant is solvent and is fit, ready, willing and able financially, and otherwise, to perform the necessary services.

Although at least some of the commodities for which the applicant seeks authority, to wit: Group 6, Agricultural Commodities, and Group 8, Dry Fertilizer and Dry Fertilizer Materials, are exempt commodities under the Commission's rules (Rules R2-52 and R-53.1), such commodities are not exempt by the statute (G.S. 62-260). As explained by applicant's counsel, applicant seeks common carrier authority to haul these commodities in the designated territories for his protection in the event of some change or amendment to such rules. This seems entirely in order and the Commission does not see any reason to deny the application for the reason that such commodities are exempt under the rules.

IT IS, THEREFORE, ORDERED That the application as amended of Bruce V. Curtis, d/b/a Bruce Curtis Trucking Company (formerly Curtis and Turner Trucking Co., Inc.) in this docket be, and the same is hereby granted to include the authority shown by the amended application and more particularly described in Exhibit B hereto attached and

IT IS FURTHER ORDERED That Bruce V. Curtis, d/b/a Bruce Curtis Trucking Company (formerly Curtis and Turner Trucking Co., Inc.) file with the Commission a tariff of rates and charges, evidence of the required insurance, list of equipment, designation of process agent and otherwise comply with the rules and regulations of the Commission and

institute operations under authority herein granted within thirty days from the date that this Order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of April, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1452

Bruce V. Curtis Trucking Company
(Formerly Curtis and Turner Trucking Co., Inc.)
614 West Main Street
Hazelwood, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Commodity Description: Group 6, Agricultural Commodities; Group 8, Dry Fertilizer and Dry Fertilizer Materials; Group 21, (a) Pallets of whatever construction, used in holding materials for storage, handling, or transportation.

Territory Description: In the areas of North Carolina included in, and located to the west of the following counties: Stokes, Forsyth, Davidson, Montgomery, and Richmond.

DOCKET NO. T-1472

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Davie Truckers, Inc., Route 1, Advance, North Carolina, to engage in the transportation of Waste Grain By-Products of Joseph Schlitz Brewing Company from plant site to points and places within an area of sixty (60) miles of Winston-Salem and return, as a Contract Carrier) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on September 23, 1969, at 2:00 P.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Peter W. Hairston
Attorney at Law
1 Court Square
Mocksville, North Carolina 27028

No Protestants

WOOTEN, COMMISSIONER: By application filed with the Commission on August 12, 1969, Davie Truckers, Inc., Route 1, Advance, North Carolina, seeks contract carrier permit to transport Group 21, Other Specific Commodities, to wit: waste grain by-products of Joseph Schlitz Brewing Company in Forsyth County to various purchasers designated by said company in a territory described as, "from the plant site of the Joseph Schlitz Brewing Company near Winston-Salem to points and places within a radius of sixty (60) miles of Winston-Salem and return of damaged or rejected shipments."

Notice of the application, along with a description of the authority sought, together with the time and place of hearing was published in the August 19, 1969, issue of the Commission's Calendar of Hearings. No protests thereto were filed and no protestants appeared at the hearing, which was held as scheduled and advertized.

The Commission received an Application for Exemption Certificate on August 19, 1969, from the Applicant herein, which covers the identical operation and commodity for which contract carrier authority is here sought.

The Applicant offered the testimony of two witnesses, L.A. Hunt, Manager, Grain Department, Joseph Schlitz Brewing Co., Elm Grove, Wisconsin, and Harold Wayne Smith, President of the Applicant Corporation, Route 1, Advance, North Carolina, and tendered for possible questions one witness, Robert Kremers, Sales Manager, Grain Department, Joseph Schlitz Brewing Company, Winston-Salem, North Carolina.

The evidence for the Applicant tended to show, that the Applicant is a North Carolina Corporation with offices and employees having many years experience in the trucking business; that Applicant owns nine (9) trucks, adapted and modified to transport the commodity for which authority is here sought; that Applicant is financially responsible and capable to properly conduct the transportation business contemplated; that it has $95,050.00 in value in property of all kinds to be used in its trucking operations; that the brewing process, which involves the use of various raw materials, produces an end of process residue of wet grain, known as Brewers Grain; that said brewer grains are sold in two states or conditions, to wit: (1) dried and sold as dried grains for use in the animal feed trade for which transportation is available by common carrier, and (2)

pressed wet grains with a moisture content of approximately 70% which must be transported expeditiously by modified dump trucks to individual farmers and dairymen for use as a feed supplement in a territory not to exceed a sixty (60) mile radius, for which there is no transportation available or offered by common carriers in the Piedmont section of North Carolina; that the Piedmont area of North Carolina is deficient in feed supplies necessary for the growth of the farm, livestock, and dairy industries which the by-product of pressed wet grain will supply; that the applicant is the best source located to furnish the transportation service required by the Schlitz Brewing Company for its pressed wet grain end of process residue or by-product; that time is of the essence in the transportation of this product, operationally, and because the product is perishable; that the nature of the product is such as to require the dedication of vehicles and service to the movement of the same; that Davie Truckers, Inc., has a bilateral contract with Joseph Schlitz Brewing Company for the movement and transportation of the commodity and in the area for which authority is here sought; and that the rates and charges agreed upon between the parties are not comparable with common carrier rates and charges, in that no such service is offered in this State, but that such rates and charges appear to be just and reasonable and competitive with common carrier rates and charges in this State.

The evidence further tends to show that the transportation of the commodity involved in this application is not exempt from regulation by this Commission by statute or Commission rule.

From the evidence presented, a portion of which is briefly set out above, the Commission is of the opinion and finds the following

FINDINGS OF FACT

1. That the proposed operations conform with the definition of a contract carrier and will not unreasonably impair the efficient services of common carriers operating under certificates or common carriers by rail.

2. That the proposed service will not unreasonably impair the use of the highways by the public.

3. That the applicant owns the equipment and has the experience necessary for the operations as specified.

4. That the applicant is fit, willing, and able to properly perform the service proposed as a contract carrier and such operations will be consistent with the public interest and this State's transportation policy as required by law.

5. That contract carrier services under bilateral written contract with the Joseph Schlitz Brewing Company for

the commodity and in the territory described in Exhibit A hereto attached and made a part hereof, will be consistent with the public interest.

6. That the proposed operation will tend to effectuate the declared policy of the applicable law.

7. That the transportation of the commodity involved in this application is not exempt from regulation by this Commission.

CONCLUSIONS OF LAW

That the applicant has satisfied the burden of proof required for the granting of the authority sought as described in Exhibit A attached hereto and made a part hereof, and that the application as therein set forth should be approved and the authority granted.

That the application for a Certificate of Exemption from regulation under the Public Utilities Act should be denied and dismissed.

IT IS, THEREFORE, ORDERED:

1. That Davie Truckers, Inc., Route 1, Advance, North Carolina, be, and it is hereby granted a contract carrier permit in accordance with Exhibit A attached hereto and made a part hereof.

2. That the application of Davie Truckers, Inc., for a Certificate of Exemption from regulation under the Public Utilities Act, be, and the same is hereby denied and dismissed.

3. That the operations herein approved be commenced only when the applicant has complied with all the rules and regulations of the North Carolina Utilities Commission with respect to the filing of minimum rates and charges, insurance coverage, and otherwise, all of which shall be done within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1472

Davie Truckers, Inc.
Route 1
Advance, North Carolina

Contract Carrier Authority

EXHIBIT A

Transportation of Group 21, Other Specific Commodities: waste grain by-products of Joseph Schlitz Brewing Company in Forsyth County to various purchasers designated by the said company in a territory described as, from the plant site of the Joseph Schlitz Brewing Company near Winston-Salem to points and places within a radius of sixty (60) miles of Winston-Salem and return of damaged or rejected shipments, in accord with bilateral contract with Joseph Schlitz Brewing Company.

DOCKET NO. T-1313, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Lewis Thompson Davis, Jr., Lewiston, N.C., Group 21, Farm Machinery Manufactured by Harrington Manufacturing Company Under Bilateral Written Contract with Harrington Manufacturing Company. Statewide) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on February 26, 1969, at 2 P.M.

BEFORE: Commissioners Clawson L. Williams, Jr. (Presiding), M. Alexander Biggs, Jr. and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Lewis Thompson Davis, Jr.
appearing for himself

No Protestants

WILLIAMS, COMMISSIONER: By application filed with the Commission on January 15, 1969, Lewis Thompson Davis, Jr., Box 65, Lewiston, North Carolina seeks to amend his contract carrier permit No. P-184 to authorize the transportation of Group 21 farm machinery manufactured by Harrington Manufacturing Company under contract with Harrington Manufacturing Company from Lewiston, North Carolina to all points and places in the State of North Carolina.

The matter was set for hearing and heard at the time and place shown in the caption and notice duly given and

published in the Calendar of Hearings issued on January 28, 1969.

Applicant appeared in his own behalf and testified in his own behalf and offered as a witness Mr. W. E. Brittain, employee of the shipper, Harrington Manufacturing Company, who is in charge of shipping for said company.

From the evidence of record, the Commission makes the following

FINDINGS OF FACT

1. Applicant Lewis Thompson Davis, Jr., Box 65, Lewiston, North Carolina, presently holds Contract Carrier Permit No. P-184 and under the authority of said permit and pursuant to that certain contract dated August 14, 1964 and filed with the Commission in Docket No. T-1313, is engaged in the business of hauling farm machinery manufactured by Harrington Manufacturing Company, Lewiston, North Carolina to points and places in the State of North Carolina within a 150 mile radius of Lewiston, North Carolina. Harrington Manufacturing Company has expanded its business and sales to all points and places in the State of North Carolina and has need of transporting its manufactured products from Lewiston, North Carolina to all points and places within the State of North Carolina.

2. That common carriers do not desire nor solicit the type business involved in this matter and cannot render the services needed by Harrington Manufacturing Company as it is often necessary for them to make emergency shipments of farm machinery, particularly during the tobacco curing season, and Harrington Manufacturing Company is in need of standby type service for this purpose.

3. The proposed operations conform with the provisions of a contract carrier and will not unreasonably impair the services of common carriers operating under certificates or common carriers by rail.

4. The proposed services will not unreasonably impair the use of the highways by the public.

5. Applicant owns the necessary equipment for the operations specified.

6. The applicant is fit, willing and able to properly perform the services proposed as a contract carrier and such operations are consistent with the public interest and the transportation policy as required by law.

7. That the contract carrier services to be performed, under the written contract with the shipper to be served for the commodities and in the territories described in Exhibit A hereto attached and made a part hereof, are consistent with the public interest.

Accordingly, the Commission makes the following

CONCLUSIONS

The applicant has satisfied the burden of proof required for the granting of the authority described in Exhibit A hereto attached and the application should be granted.

IT IS, THEREFORE, ORDERED That Lewis Thompson Davis, Jr., Box 65, Lewiston, North Carolina, is hereby granted contract carrier permit in accordance with Exhibit A hereto attached and its presently held Permit No. P-184 is hereby amended in accordance with the authority shown in Exhibit A.

IT IS FURTHER ORDERED That the operations of the authority herein granted shall commence within 30 days from the date of this Order, and applicant shall comply with all rules and regulations of the Commission with respect to filing of rates, insurance coverage and otherwise.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of March, 1969.

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

DOCKET NO. T-1313 SUB 1 — Lewis Thompson Davis, Jr., Box 65, Lewiston, North Carolina

EXHIBIT A — Contract Carrier Authority

Transportation of Group 21, Farm Machinery manufactured by Harrington Manufacturing Company from Lewiston, N. C. to all points and places within the State of North Carolina and return of such commodities from points and places within the State of North Carolina to Harrington Manufacturing Company, Lewiston, N.C.

DOCKET NO. T-1445

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of First Courier Corporation for Contract Carrier Authority to Transport Group 21, Commercial Papers, Cash Letters, Audit and Accounting Media and Other Business Records and Documents and Written Instruments (except currency, coin and bullion), Between All Points and Places in North Carolina) ORDER GRANTING PERMIT

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, March 20 and June 3-4, 1969

BEFORE: Chairman Harry T. Westcott, Commissioners Clawson L. Williams, Jr., Marvin R. Wooten, and John W. McDevitt, Presiding

APPEARANCES:

For the Applicant:

Kenneth Wooten, Jr., and Ralph McDonald
Bailey, Dixon & Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602

William F. King
Major, Sage, Vance & King
Attorneys at Law
421 King Street
Alexandria, Virginia 22314

For the Protestant:

Tom Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
For: American Courier Corporation

Peter A. Greene
Macleay, Lynch, Bernhard & Gregg
Attorneys at Law
Commonwealth Building
Washington, D. C. 20006
For: American Courier Corporation

McDEVITT, COMMISSIONER: First Courier Corporation, 301 South Tryon Street, Charlotte, North Carolina, filed application on November 20, 1968, for authority as a contract carrier to transport the following commodities:

Group 21. Commercial papers, cash letters, audit and accounting media and other business records, documents and supplies used in processing such media and records and documents and written instruments (except currency, coin and bullion) between all points and places in North Carolina.

The application was scheduled for hearing on February 12, 1969, and Notice thereof was published in the Calendar of Hearings issued December 23, 1968. By Commission order dated February 10, 1969, the hearing was cancelled and rescheduled on March 20, 1969. Protest and Motion for Intervention was filed on January 30, 1969, by American Courier Corporation, 2 Nevada Drive, Lake Success, New York.

Public hearing was held as captioned with the Applicant and Protestant present and represented by counsel.

First Courier Corporation is a North Carolina corporation organized as a subsidiary of First Union National Bank Corporation which was formerly known as First Union National Bank of North Carolina but which was recently reorganized with the parent corporation owning and holding the stock of various independent subsidiaries. First Courier Corporation will be staffed from the private courier department of First Union National Bank of North Carolina. The parent, First Union National Bank Corporation, will transfer the assets and personnel of the private courier department of First Union National Bank of North Carolina to First Courier Corporation to provide an experienced and well equipped nucleus to meet its obligations as a contract carrier.

The Applicant presented the testimony of Ralph L. LeBlanc, Manager of First Union National Bank's courier mail department and the Vice President and Manager of Operations for First Courier Corporation, who described the operation of the bank's courier mail department which provides transportation services to 119 locations in 58 cities extending from Sylva in Western North Carolina to Greenville in Eastern North Carolina for banking documents, supplies and media over complex routes and on special schedules, operating 24 hours per day and 7 days per week. The bank's need for transportation service is increasing and it has received inquiries from other businesses also interested in having the proposed service. The present operation has reached such size and complexity that it can best be operated as an independent subsidiary of the parent, First Union National Bank Corporation, and is expected to provide more economical and staisfactory service. Public transportation by a certificated common carrier is not available to perform the required service. Several witnesses representing companies which have negotiated bilateral contracts with First Courier for the proposed service testified in support of the application.

Carl R. Johnson, Jr., representing First Card Corporation, a subsidiary of First Union National Bank Corporation which extends consumer credit through 9,000 participating merchants or businesses to approximately 265,000 customers in North Carolina, testified that his company needs transportation service between its centers of operations in Asheville, Charlotte, Raleigh, Fayetteville, Wilson and Winston-Salem. Need for security, speed and transportation schedules designed to meet their specific needs are considerations which led First Card to negotiate a contract with First Courier for its services. The required service is not available by certificated common carriers.

Raymond Griffin, Manager of Data Processing for Southern National Bank, Lumberton, North Carolina, testified that his bank needs transportation service for inter-bank correspondence, audit and accounting media between its

headquarters in Lumberton and its branches in Henderson, Edenton, Tabor City and Mt. Gilead and for related purposes to Charlotte and Raleigh. Shipments are picked up and delivered twice daily, processed overnight in Lumberton and returned to the branches the following morning. Certificated common carriers are unable to provide the required transportation service on a basis which is satisfactory to the bank.

George F. McNeil, Assistant Vice President, Northwestern Bank, North Wilkesboro, North Carolina, testified that Northwestern needs transportation service for internal debit and credit items, accounting media and cash letters on a daily basis between its headquarters at North Wilkesboro and 95 branches located in 51 towns in Central and Western North Carolina with additional service to Charlotte and Raleigh. Shipments move from the branches at the close of a business day to North Wilkesboro, Charlotte and Raleigh for processing and are returned the following morning. Public transportation by a certificated common carrier is not available to meet the needs of the bank.

Claude Hefner, Vice President of Peoples Bank, Catawba, North Carolina, testified that Peoples Bank needs transportation service on a daily basis between its Newton and Conover branches and Charlotte. Shipments are to be picked up at the close of the business day, transported to Charlotte for overnight processing, and returned to the branches the following morning. Public transportation by certificated common carriers is not available to meet the bank's specific requirements.

J. L. Buff, Vice President, First National Bank of Catawba, Hickory, North Carolina, testified that his company needs transportation service for movement of cash letters and accounting media between Charlotte, Newton, Conover and its ten (10) Hickory offices. Security, speed of handling and ability to meet the particular needs of the company were prime factors in contracting for the services of First Courier. Public transportation by a certificated common carrier is not available to meet the specific needs of the bank.

Bob Harrington, Comptroller of the Cameron-Brown Company, Raleigh, North Carolina, a subsidiary of First Union National Bank Corporation, which is engaged in mortgage banking, needs transportation service for loan documents, accounting and auditing media between its branch offices in Asheville, Charlotte, Wilmington, Rocky Mount, High Point, Winston-Salem, Greensboro and Fayetteville on a daily basis 5 days per week with shipments to originate from each point after 6:00 P.M. for early delivery the following morning. Security, speed and the ability to meet the unusual schedule of the company, in addition to the absence of public transportation by a certificated common carrier, were factors in its decision to negotiate a contract with First Courier for the required service.

First Courier has entered into bilateral contracts for the proposed service with each of the companies represented by supporting witnesses. The contract with First Union National Bank of North Carolina contains a schedule of point-to-point rates and charges based on actual experience. All other contracts provide that the rate of compensation will be a flat monthly charge determined by customers service and daily weight of first class items for one month but in no event less than $25.00 per month. All contracts contain a 15-day cancellation clause and do not limit the number of shipments which may be tendered.

The Protestant, American Courier Corporation, holds North Carolina Contract Carrier Permit No. P-131 for transportation of:

(1) Commercial papers, documents, written instruments and inter-office communications, except coin, currency and negotiable securities, ordinarily used by banks and banking institutions, between banks and banking institutions and branches thereof, between all points and places within the State of North Carolina, pursuant to bilateral contracts with banks and banking institutions.

(2) Checks, business papers, records and audit and accounting media of all kinds (except plant removals), bank checks, check books, drafts and other bank stationery, pursuant to individual bilateral contracts or agreements, between all points and places within the State of North Carolina.

American Courier offered the testimony of its President, Kevin Murphy; Phillip Lynch, Comptroller and Treasurer; John Moore, Superviser of Sales and Operations for areas including Eastern North Carolina; and John Sinnott, Regional Vice President, all tending to show that American Courier operates extensively as a contract carrier in some instances, and as a common carrier in some instances in 40 states and Canada; that its total revenue for 1968 was approximately $19,290,000; that it is a subsidiary of Purolator Incorporated, Rahway, New Jersey, a manufacturer of filters for automobiles; and that it operates as a contract carrier over 32 routes and serves 439 separate banks plus approximately 50 commercial establishments in North Carolina. The American Courier witnesses contended that Applicant, First Courier, should not be permitted to compete with American Courier because, among other reasons, the granting of the proposed authority would adversely affect the business of American Courier; that American Courier as a contract carrier cannot compel any business to enter into a bilateral contract for its services; that American Courier has served some companies represented by Applicant's supporting witnesses and has unsuccessfully sought to negotiate or re-negotiate contracts with businesses represented by some of the supporting witnesses.

Based on the evidence adduced, the Commission makes the following

FINDINGS OF FACT

1. The Applicant, First Courier, is a duly organized North Carolina corporation and subsidiary of First Union National Bank Corporation, authorized by its charter to engage in the business of general transportation. According to its pro forma balance sheet, as of the date it will begin operations, it will have assets of $250,000 including equipment valued at $185,000 and $50,000 in cash.

2. The proposed operations of First Courier conforms with the definition of a contract carrier by motor vehicle; will not unreasonably impair the efficient service of carriers operating under certificates or rail carriers; will not unreasonably impair the use of the highways by the general public; and the Applicant is fit, willing and able to perform the proposed service as a contract carrier.

3. The proposed operation will be consistent with the public interest and the policy declared in Chapter 62 of the General Statutes of North Carolina.

4. Applicant, First Courier Corporation, has entered into bilateral contracts for the proposed service with First Union National Bank of North Carolina, First Card Corporation, Peoples Bank, the Northwestern Bank, Southern National Bank, First National Bank of Catawba, and Cameron-Brown Company.

5. The Protestant, American Courier, is a contract carrier by motor vehicle operating under a permit issued by the Utilities Commission under the provisions of G.S. 62-262(h)(i) and performs service in North Carolina as a contract carrier as defined in G.S. 62-3(8) and G.S. 62-3(9), and as a contract carrier, does not hold itself out to serve the public generally as a common carrier and is not authorized under the Public Utilities Act and said definitions to serve the public generally as a common carrier, and is not a carrier operating under a certificate of the Commission within the provisions of G.S. 62-262(i)(2) for consideration as to whether the operations proposed in the application will unreasonably impair the efficient public service of the Protestant, and its protest is considered under other provisions of the Public Utilities Act, as discussed under the conclusions hereinafter set forth.

CONCLUSIONS

Applicant, First Courier Corporation, has borne the burden of proof that there is a public need by several shippers for the proposed service which conforms to the definition of a Contract Carrier by Motor Vehicle contained in G.S. 62-3(8). Bilateral contracts between the Applicant and shippers have

been filed in accordance with Commission Rule R2-15. The Commission is of the opinion and concludes that the Applicant has fulfilled the requirements of the Public Utilities Act and the rules and regulations of the Commission and is entitled to a contract carrier permit authorizing it to perform the proposed transportation service.

The Commission has given consideration to the protest of American Courier and to the testimony offered by American Courier with respect to its operations in North Carolina and cannot find that the proposed operations of the Applicant will improperly or unlawfully interfere with or impair any rights granted to existing contract carriers under the Public Utilities Act. Contract carriers holding permits under G.S. 62-262 are not afforded the same protection in their permit authority from subsequent applications as the Public Utilities Act affords to common carriers operating under certificates issued under the Public Utilities Act. A common carrier is given certain protection in its franchise area consistent with the duty and obligation of the common carrier to provide service to the public under rates and charges on file with the Utilities Commission and regulated by the Utilities Commission. The common carrier must provide service on call and demand to all of the public at published regulated rates and in return for the obligation and duty to provide such service the common carrier is granted certain franchise protection of the Public Utilities Act so long as it is able to adequately serve the public. The contract carrier, on the other hand, is not required to serve anyone and does not serve anyone except those that it voluntarily enters into contracts with for motor carrier service. The contract carrier's minimum rates are on file with the Commission, but it is not required to provide service at such minimum rates and may decline to enter into a contract except at such rates as it desires to negotiate in any particular contract. The Public Utilities Act does not place the same burden and obligation upon contract carriers as it places upon common carriers to provide service in their service area and, by the same token, it does not provide the same franchise protection afforded to common carriers. A protesting contract carrier is permitted to intervene and its protest is heard primarily under the provisions of G.S. 62-262(i)(5) on the requirement that the Commission give consideration in permit applications to "whether the proposed operations will be consistent with the public interest and the policy declared in this chapter;". The Commission has given due consideration to the proposed operations and finds that they are consistent with the public interest and with the policy declared in the Public Utilities Act, i.e., Chapter 62 of the General Statutes. The Commission concludes that it would not be in the public interest to deny the application based upon the desire of the Protestant, American Courier, for protection from another contract carrier of bank documents in securing authority to engage in similar transportation of bank documents as a contract carrier. The protection of one

contract carrier of bank documents from any competition when the contract carrier has no duty and obligation to serve the public would be contrary to the public interest. The Protestant, American Courier, is free to pick and choose the banks and other customers shipping bank documents which it desires to serve, and it is free under its permit to offer its services to selective banks or bank chains to the exclusion of other banks or bank chains. To deny the Applicant's permit for contract authority to contract with such other banks and similar shippers who do not enter into contracts with American Courier would be to authorize arbitrary power of American Courier to confer its services upon such bank or bank chains as it chooses at unregulated contract rates and would leave other banks and banking customers without recourse to for-hire motor carrier service as contemplated under the contract carrier permit authority provided in the Public Utilities Act.

IT IS THEREFORE ORDERED That the application of First Courier Corporation in Docket No. T-1445 be, and it is hereby, approved and that a contract carrier permit be issued to First Courier Corporation in accordance with Exhibit A attached hereto and made a part hereof.

IT IS FURTHER ORDERED That service under the contract carrier permit begin when First Courier has filed with the Commission evidence of liability insurance coverage, copies of contracts, not heretofore filed, containing rates and charges which shall be not less than the rates and charges approved or prescribed by the Commission for common carriers performing similar service, and has otherwise complied with the rules and regulations of the North Carolina Utilities Commission all of which shall be done within 60 days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of August, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1445

First Courier Corporation
301 South Tryon Street
Charlotte, North Carolina

Contract Carrier Authority

EXHIBIT A

Group 21. Commercial papers, Cash letters, audit and accounting media and other business records, documents and supplies used in processing such media and records and documents and written instruments (except currency, coin and bullion) between all points and places in North Carolina.

DOCKET NO. T-1465

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Ted Leo Floyd,) ORDER
Route 1, Loris, South Carolina)

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, June 27, 1969, at 11:00 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Kenneth Wooten, Jr. and Ralph McDonald
Bailey, Dixon and Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602

No Protestants

BY THE COMMISSION: By application filed with the Commission on May 21, 1969, Ted Leo Floyd, Route 1, Loris, South Carolina, seeks to engage in the transportation of cured tobacco from Burlington, North Carolina, to Mebane, North Carolina. All movements are to be under contract with one shipper only, to wit: Export Leaf Tobacco Company, a corporation of Richmond, Virginia.

Notice of the application describing the nature thereof and reflecting the time and place of hearing, was given in the Commission's Calendar of Hearings issued June 3, 1969.

No protests were filed and no one appeared at the hearing in opposition thereto.

It appears from the application and the evidence that Applicant, Ted Leo Floyd, is an individual; that Applicant is familiar with the motor carrier business and understands the difference between a common carrier and a contract carrier, as defined, classified and regulated by the North Carolina Public Utilities Act; that Applicant owns a twenty (20) foot flat body Chevrolet truck which will be used in the proposed operation and that Applicant has a net worth in the amount of $14,000.00.

It further appears from evidence in the form of a affidavit, in support of the application, made by the Traffic Manager of Export Leaf Tobacco Company, that said shipper purchases tobacco from three auction warehouses in Burlington, North Carolina; that the purchased tobacco must then be moved to the "prize houses" in Mebane, North

Carolina; that there may be as many as eight (8) or nine (9) shipments in one day; that Mebane is located only about eight (8) miles from Burlington and the movements of tobacco must be made immediately after purchase and that loads are often much less than truck loads. The shipper witness further represents that common carriers do not provide the type of service that these movements require, and that there is a need for the service proposed by Applicant, who will dedicate his equipment and stand ready at all times of the day to move any size load.

An executed copy of the contract entered into by and between Applicant and the shipper, Export Leaf Tobacco Company, has been filed with the Commission.

Upon consideration of the application and the evidence adduced, the Commission 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 the 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. 62-259 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 Commission 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 Ted Leo Floyd, Route 1, Loris, South Carolina, to engage in the transportation of Group 21, cured tobacco, as particularly described in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED:

That Ted Leo Floyd, Route 1, Loris, South Carolina, file with this Commission schedules of minimum rates and charges, evidence of insurance coverage, lists 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 of this order.

ISSUED BY ORDER OF THE COMMISSION.
This the 7th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1465 Ted Leo Floyd
Contract Carrier of Property
Loris, South Carolina

EXHIBIT A Transportation of Group 21, Cured tobacco, from Burlington, North Carolina, to Mebane, North Carolina, under written bilateral contract with Export Leaf Tobacco Company of Richmond, Virginia.

DOCKET NO. T-645, SUB 13
DOCKET NO. T-645, SUB 14

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Fredrickson Motor Express Corporation to serve the following routes: (1) Between Linville, N. C., and Boone, N. C., over N. C. Highway 105 and return over the same route serving all intermediate points; (2) Between Linville, N. C., and Blowing Rock, N. C., over U. S. Highway 221 and return over the same route for operating convenience only, serving no intermediate points; (3) Between Boone, N. C., and Deep Gap, N. C., over U. S. Highway 421 and return over the same route serving all intermediate points. (Sub 13)

Application of Fredrickson Motor Express Corporation to operate over the following routes for convenience only, serving no intermediate points: (1) Between Blowing Rock, N. C., and Lenoir, N. C., over U. S. Highway 321, and return over the same route; (2) Between Marion, N. C., and Polkville, N. C., over N. C. Highway 226, and return over the same route; (3) Between North Wilkesboro, N. C., and Statesville, N. C., over N. C. Highway 115, and return over the same route; (4) Between North Wilkesboro, N. C., and Harmony, N. C., over N. C. Highway 115 to junction with N. C. Highway 901, thence over N. C. Highway 901 to Harmony, N. C., and return over the same route. (Sub 14)

ORDER

HEARD IN: The Courtroom of the Commission, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on February 13, 1969, at 11:00 A.M.

BEFORE: Commissioners M. Alexander Biggs, Jr. (Presiding), John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Kenneth Wooten, Jr., and
Ralph McDonald
Bailey, Dixon & Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina

No Protestants

BIGGS, COMMISSIONER: These proceedings arise upon applications filed with the North Carolina Utilities Commission as follows: Application in Docket No. T-645, Sub 13 was filed on August 8, 1968, and application in Docket

No. T-645, Sub 14 was filed on December 18, 1968. Appropriate notices of the filing of said applications and of hearings with respect to same were duly published in the Calendar of Hearings issued by the Commission and both dockets came on for hearing on February 13, 1969, as therein specified. Upon Motion of the applicant, the dockets were consolidated for hearing with the evidence presented to be considered in connection with both applications.

No protests were filed with respect to said applications, and no person appeared at the hearing in opposition thereto.

Based upon the evidence adduced at said hearing, the Commission makes the following

FINDINGS OF FACT

1. Fredrickson Motor Express Corporation, 3400 North Graham Street, Charlotte, North Carolina, is a North Carolina Corporation engaged in the business of a regular route common carrier of property by motor vehicle. Said corporation is presently engaged in said business in intrastate commerce under N.C.U.C. Certificate No. 1, and as such carrier it is subject to the jurisdiction of the North Carolina Utilities Commission.

2. Under its application in Docket T-645, Sub 13, the applicant seeks to provide transportation services over routes described in the first paragraph of the caption, some of which routes it has heretofore been serving under the mistaken impression that it had authority to do so under the motor carrier rights acquired by it sometime ago from James C. Cope, d/b/a Cope Trucking Company. It appears from the evidence and the Commission finds that there is a need for the transportation service which applicant proposes to furnish over said routes and that public convenience and necessity requires that applicant continue providing the service it has heretofore provided by mistake.

3. Under its application in Docket T-645, Sub 14, the applicant seeks authority to operate over the routes specified in paragraph two of the caption without providing service to intermediate points and solely for the purpose of increasing the efficiency of its operations. The evidence presented in this connection tends to show, and the Commission finds, that the applicant is presently authorized to serve numerous routes in the area where the proposed routes are located, some of which routes pass through and include the terminal points of the proposed routes. By operating its trucks over the proposed routes with closed doors, the applicant will be able to save many miles of travel and thereby substantially reduce its expenses in serving its territory, which greater efficiency of operations will inure to the benefit of the shipping and receiving public in said area. Authorization for the applicant to operate its vehicles over said routes will not enlarge its authority to provide transportation service, and

the interests of other certificated carriers will not be affected thereby.

4. Public convenience and necessity requires that said applications of Fredrickson Motor Express Corporation be approved.

CONCLUSIONS

The Commission concludes from the evidence presented, and the facts found, that the applicant has borne the burden of showing that public convenience and necessity requires approval of said applications and that the additional authority sought thereunder should be granted.

IT IS THEREFORE ORDERED that the Applicant, Fredrickson Motor Express Corporation, be, and it is, hereby granted authority to transport property by motor vehicle for compensation as a common carrier over the routes specified on Schedule A attached hereto and made a part hereof by reference, which authority shall entitle and require the applicant to provide said services at the terminal and intermediate points along said routes.

IT IS FURTHER ORDERED that the Applicant, Fredrickson Motor Express Corporation, be, and it is, hereby granted authority to operate its motor trucks over the routes specified in Schedule B hereto attached and made a part hereof by reference without serving the intermediate points along said routes. Said authority being granted solely to enable applicant to provide its presently authorized transportation service more efficiently and economically.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of February, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-645 SUB 13

Fredrickson Motor Express Corporation
3400 North Graham Street
Charlotte, North Carolina

Regular Route Common Carrier Authority

SCHEDULE A

Transportation of Group 1, General Commodities, over the following routes:

1. Between Linville, N. C., and Boone, N. C., over N. C. Highway 105 and return over the same route serving all intermediate points.

2. Between Linville, N. C., and Blowing Rock, N. C., over U. S. Highway 221 and return over the same route for operating convenience only serving no intermediate points.

3. Between Boone, N. C., and Deep Gap, N. C., over U. S. Highway 421 and return over the same route serving all intermediate points.

DOCKET NO. T-645 SUB 14

Fredrickson Motor Express Corporation
3400 North Graham Street
Charlotte, North Carolina

Regular Route Common Carrier Authority

SCHEDULE B

Transportation of Group 1, General Commodities, over the following routes for convenience only, serving no intermediate points:

1. Between Blowing Rock, N. C., and Lenoir, N. C., over U. S. Highway 321, and return over the same route.

2. Between Marion, N. C., and Polkville, N. C., over N. C. Highway 226, and return over the same route.

3. Between North Wilkesboro, N. C., and Statesville, N. C., over N. C. Highway 115, and return over the same route.

4. Between North Wilkesboro, N. C., and Harmony, N. C., over N.C Highway 115 to junction with N.C. Highway 901, thence over N.C. Highway 901 to Harmony, N.C., and return over the same route.

DOCKET NO. T-1447

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Albert R. Hargrove, d/b/a) RECOMMENDED
Hargrove's Mobile Home Movers, Route 2,) ORDER
Box 550 I, Roanoke Rapids, North Carolina)

HEARD IN: The offices of the Commission, Raleigh, North Carolina, February 28, 1969, at 10:00 A.M.

BEFORE: E. A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

Albert R. Hargrove
Route 2, Box 550 I
Roanoke Rapids, North Carolina
(Appearing for himself)

No Protestants

HUGHES, EXAMINER: By application filed with the Commission on December 20, 1968, applicant seeks an irregular route common carrier certificate to engage in the transportation of mobile homes between points and places within a fifty (50) mile radius of Roanoke Rapids, North Carolina.

Notice of the application describing the nature thereof and reflecting the time and place of the hearing was given in the Commission's Calendar of Hearings issued December 23, 1968.

No protests were filed and no one appeared at the hearing in opposition thereto.

The evidence tends to show that applicant is presently engaged in the transportation of mobile homes between points within the municipality of Roanoke Rapids and its commercial zone as defined by the Commission; that in connection with this business, he owns a 1955 Chevrolet truck especially designed to pull house trailers and that he frequently receives requests to move house trailers or mobile homes to and from points within the territory for which authority is sought; that there are several mobile home dealers and mobile home parks within the Roanoke Rapids area alone; that there are no authorized mobile home carriers domiciled within the area applied for and that applicant has a net worth of some $11,000.00.

In addition to the applicant, evidence in support of the application was offered by Mr. William Grant Sikes, the owner of a mobile home court in Roanoke Rapids, who testified that he is also a dealer in mobile homes; that the need for the service proposed by applicant is critical for the reason that under existing circumstances when such service is needed, it is necessary to make telephone calls to Greensboro, Jacksonville or Portsmouth, Virginia; that on the most recent occasion when such service was needed, the nearest mobile home carrier he could find was in Morehead City and that in his opinion there is a desperate need for the service proposed by applicant.

Upon consideration of the application, the testimony of record and 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 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 Albert R. Hargrove, d/b/a Hargrove's Mobile Home Movers, Route 2, Box 550 I, Roanoke Rapids, North Carolina, to engage in the transportation of mobile homes, as particularly described in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED:

That Exemption Certificate No. E-13120, heretofore issued to Albert Roscoe Hargrove, be, and it is, hereby cancelled.

IT IS FURTHER ORDERED:

That Albert R. Hargrove, d/b/a Hargrove's Mobile Home Movers file with the Commission a tariff of rates and charges, certificates 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.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of March, 1969.

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

DOCKET NO. T-1447

Hargrove's Mobile Home Movers
Albert R. Hargrove, d/b/a
Irregular Route Common Carrier
Roanoke Rapids, North Carolina

EXHIBIT B Transportation of mobile homes between points and places within a fifty (50) mile radius of Roanoke Rapids, North Carolina.

DOCKET NO. T-681, SUB 28

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Helms Motor Express, Inc., for Authority to Transport General Commodities except those requiring special equipment over certain specified routes, for operating convenience only and with no service at intermediate points	) RECOMMENDED ORDER GRANTING AUTHORITY

HEARD IN: The Commission Library, Raleigh, North Carolina, May 30, 1969

BEFORE: John W. McDevitt, Hearing Commissioner

APPEARANCES:

For the Applicant:

Kenneth Wooten, Jr.
Bailey, Dixon and Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina

McDEVITT, HEARING COMMISSIONER: Helms Motor Express, Inc. (Helms) filed application on January 24, 1969, for authority to transport general commodities, except those requiring special equipment for operating convenience only and with no service at intermediate points over the following routes:

Route 1. Between Salisbury, North Carolina, and Statesville, North Carolina, over U. S. Highway 70 for operating convenience only, serving no intermediate points, except those presently served: Cleveland, Barber and Fiberton (all presently served off U. S. Highway 801).

Route 2. Between Rockingham, North Carolina, and Charlotte, North Carolina, over U. S. Highway 74 for operating convenience only, serving no intermediate points.

Route 3. Between Statesville, North Carolina, and Conover, North Carolina, over U. S. Highway 70 for operating convenience only, serving no intermediate points.

The application was scheduled for hearing on April 10, 1969, and notice thereof was given in the Calendar of

Hearings issued January 28, 1969. The hearing was subsequently postponed to May 30, 1969, on motion of counsel to enable Helms to file application with the Interstate Commerce Commission for corresponding interstate authority and notice thereof appeared in the Federal Register of April 23, 1969. No protest was filed and no one appeared at the hearing in opposition to the application.

Bruce Hooks, Traffic Manager for Helms, testified and demonstrated through Exhibit 2, a map of North Carolina showing present and proposed authority, that Helms operates extensive intrastate transportation authority under its Certificate C-3 serving a major network extending from Boone, Winston-Salem, and Charlotte in Western North Carolina to Williamston, Washington, New Bern and Jacksonville in Eastern North Carolina. Helms has previously been granted operating authority for convenience only for 14 similar links connecting important points within its system which have contributed to more economical operation of equipment and more expeditious service.

The proposed 26-mile Route 1, between Salisbury and Statesville, is 13 miles shorter than the present 39-mile route via Millbridge and Mooresville. The proposed 70-mile Route 2, between Charlotte and Rockingham over U. S. Highway 74, is 28 miles shorter than the present 98-mile route between the same points via Mt. Gilead, Albemarle and Mount Pleasant. The proposed 24-mile Route 3, between Statesville and Conover over U.S. Highway 70, is 12 miles shorter than the present 36-mile route via Taylorsville. These proposed routes over U. S. Highways having higher standards afford a 53-mile reduction in present route mileage. They are considered safer and more economical for the operation of transportation equipment and will enable Helms to improve service.

To illustrate the effect of the proposed routes, Exhibit 3 shows that Helms moved over 300 shipments weighing 188,000 pounds and yielding $1,879.00 over the circuitous 98-mile route between Rockingham and Charlotte which could have moved more economically and expeditiously and more safely over the proposed 70-mile route thus benefiting Helms and the shippers without adversely affecting other certificated carriers. Helms' line-haul operating expense is 36 cents per mile which, when applied to the 53-mile reduction, reflects the substantial savings afforded by this proposal. Such savings are essential to the preservation of Helms' transportation system which had an operating ratio of 104 for the first quarter of 1969 and an operating loss of $62,430.00 for the month of April 1969.

Based upon the evidence adduced, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. Helms is a duly created and existing corporation which holds extensive North Carolina intrastate operating authority under Certificate C-3 as a regular route common carrier.

2. Helms had an operating ratio of 104 for the first quarter of 1969 and a loss of $62,430.00 for the month of April 1969. The balance sheet at April 30, 1969, reflected a deficit surplus of $192,662.00.

3. The proposed service will enable Helms to reduce operating expenses and improve service without adversely affecting the highways or operations of other certificated carriers.

4. There is public need for the improved service which the proposed authority will enable Helms to render in addition to other existing authorized transportation service.

5. Helms is fit, willing and able, financially and otherwise, to properly perform the proposed service.

CONCLUSIONS

Helms has carried the burden of proof as required by G.S. 62-262(e) that public convenience and necessity requires the granting of the proposed authority and that it will not result in any unfair or unreasonable competitive advantage over other carriers. The proposed service will permit economies which Helms should employ to obtain a more favorable operating ratio. The proposed routes are safer, more direct and should result in improved service. Helms should not be permitted to provide transportation service at any point on the proposed routes which it is not already authorized to serve.

IT IS THEREFORE ORDERED That Helms Motor Express, Inc. be, and it is hereby, granted additional operating authority in accordance with Exhibit A hereto attached and that Certificate C-3 be amended accordingly.

IT IS FURTHER ORDERED That Helms Motor Express, Inc. comply with all applicable rules and regulations of the North Carolina Utilities Commission and commence operations under the authority granted in Exhibit A not later than thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of July, 1969.

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

DOCKET NO. T-681
SUB 28

Helms Motor Express, Inc.
Albemarle, North Carolina

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of general commodities except those requiring special equipment, for operating convenience only and with no service at any intermediate point thereon, over the following routes:

Route 1. Between Salisbury, North Carolina, and Statesville, North Carolina, over U. S. Highway 70 for operating convenience only, serving no intermediate points, except those presently served: Cleveland, Barber and Fiberton (all presently served off U. S. Highway 801).

Route 2. Between Rockingham, North Carolina, and Charlotte, North Carolina, over U. S. Highway 74 for operating convenience only, serving no intermediate points.

Route 3. Between Statesville, North Carolina, and Conover, North Carolina, over U. S. Highway 70 for operating convenience only, serving no intermediate points.

DOCKET NO. T-681, SUB 28

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Helms Motor Express, Inc., for Authority to Transport Commodities, except those requiring Special Equipment Over Certain Specified Routes for Operating Convenience Only and with No Service at Intermediate Points	) ORDER CORRECTING CLERICAL OMISSION

McDEVITT, COMMISSIONER: Upon consideration of the record and the order entered July 21, 1969, granting certain motor common carrier authority to Helms Motor Express, Inc., and

It appearing, that said order inadvertently omitted, through clerical error, the finding of fact intended to be entered that public convenience and necessity requires the service authorized in interstate commerce, and the adjudication applicable thereto, and,

It appearing, that the order is incomplete without amendment to show intended finding of fact,

IT IS, THEREFORE, ORDERED:

That the order herein entered July 21, 1969, is hereby amended by inserting additional Finding of Fact No. 6 to read as follows:

"6. That public convenience and necessity requires the proposed service in interstate and foreign commerce within limits which do not exceed the scope of the proposed intrastate operations.";

and by adding an additional adjudication following the final full paragraph on Page 4 of said order to read as follows:

"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 [49USCA 306(a)(6)], relating to registration of state motor carrier certificates."

ISSUED BY ORDER OF THE COMMISSION.
This the 11th day of August, 1969.

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

DOCKET NO. T-1461

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of High Point Delivery Company, Inc., 202 West Washington Street, High Point, North Carolina, for contract carrier authority for Group 15, Retail Store Delivery Service and Group 21, Bakery Goods and Messenger Service) RECOMMENDED ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on August 26, 1969, at 2:00 o'clock P.M.

BEFORE: E. A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

H. W. Ellington
High Point Delivery Company, Inc.
High Point, North Carolina

No Protestants

HUGHES, EXAMINER: By application filed with the Commission on April 23, 1969, High Point Delivery Company, Inc., 202 West Washington Street, High Point, North Carolina, seeks to engage in the transportation of Group 15, Retail Store Delivery Service and Group 21, Bakery Goods and Messenger Service, within a radius of twenty-five (25) miles of High Point, as a contract carrier.

Notice of the application, reflecting the nature thereof and showing the time and place of hearing, was given in the Commission's Calendar of Hearings issued on May 8, 1969. No protest was filed and no one appeared at the hearing in opposition thereto.

It appears from the application and the evidence that Applicant is a corporation duly organized under the laws of the State of North Carolina; that Applicant presently holds a Certificate of Exemption under which intracity operations are carried on within the municipality of High Point and its commercial zone; that Applicant owns three (3) Ford Econoline trucks which Applicant proposes to use in its operation and that Applicant has net assets in the amount of some $18,000.

It further appears from evidence in the form of affidavits in support of the application, that Big Bear Market has a need for and will use Applicant for the transportation of bakery goods; that Kay Chemical Company and Dennis Office Supply Company have a need for and will use Applicant's proposed service in making retail store deliveries. The retail store delivery portion of the application is also supported by Thalhimers Department Store. No evidence was presented in support of that portion of the application in which Applicant seeks authority to engage in messenger service.

Upon consideration of the application and the evidence adduced, the Hearing Examiner makes the following

FINDINGS OF FACT

(1) That the proposed operations, except that portion relating to messenger service, 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 the 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. 62-259 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 as the same relates to retail store delivery service and the transportation of bakery goods and that the authority sought should be granted. The Examiner further concludes that in the absence of any showing of a need for the proposed messenger service, that this portion of the application should be denied.

IT IS, THEREFORE, ORDERED:

That a contract carrier permit be granted High Point Delivery Company, Inc., 202 West Washington Street, High Point, North Carolina, to engage in the transportation of Group 15, Retail Store Delivery Service and Group 21, Bakery Goods, as particularly described in Exhibit A hereto attached and made a part hereof; and that in all other respects the application be, and the same is, hereby denied.

IT IS FURTHER ORDERED:

That High Point Delivery Company, Inc., file with this Commission bilateral written contracts with shippers; schedules of minimum rates and charges, evidence of insurance coverage, lists 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 of this order.

IT IS FURTHER ORDERED:

That Exemption Certificate No. E-12089, heretofore issued to High Point Delivery Company, Inc., be, and the same is, hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of September, 1969.

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

DOCKET NO. T-1461 High Point Delivery Company, Inc.
Contract Carrier of Property
High Point, North Carolina

EXHIBIT A

Transportation of Group 15, Retail Store Delivery Service, under bilateral written contract with Kay Chemical Company, Dennis Office Supply Company and Thalhimers Department Store and Group 21, Bakery Goods, under bilateral written contract with Big Bear Market, within a radius of twenty-five (25) miles of High Point.

DOCKET NO. T-320, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of H. R. Holt, P.O. Box 525, Troy, North Carolina, Authority to Transport Group 3 Petroleum and Petroleum Products, Liquid in Bulk in Tank Trucks from Existing Originating Terminals at or near Wilmington, Morehead City, River Terminal, Thrift, Friendship, Salisbury, Apex, Fayetteville and Selma to Town of Norman, North Carolina, Permission is requested to Tack and Combine this Authority with Authority Held by Applicant) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on February 25, 1969 at 10 o'clock, A.M.

BEFORE: Commissioners Clawson L. Williams, Jr., Presiding, M. Alexander Biggs, Jr. and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina

For the Protestant:

Kenneth Wooten, Jr.
Bailey, Dixon & Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602
For: Schwerman Trucking Company

WILLIAMS, COMMISSIONER: By application filed with the Commission on November 19, 1968, the Applicant seeks the authority set forth in the caption. The application was duly set for hearing on Tuesday, February 25, 1969 at 10 A.M. in the Commission Hearing Room and notice of said time

and place of hearing was duly given in the Commission Calendar of Hearings issued December 23, 1968.

Protest was duly filed with the Commission on February 3, 1969 by Schwerman Trucking Company, 611 South 28 Street, Milwaukee, Wisconsin 53246.

The hearing was duly held at the time and place hereinbefore stated, and from the evidence received the Commission makes the following

FINDINGS OF FACT

1. That the applicant, H. R. Holt, currently holds Certificate No. C-385, issued by this Commission in Docket T-320, Sub 4, authorizing him to operate as an irregular route common carrier of petroleum and petroleum products in bulk in tank trucks from existing originating terminals stated in said authority to points and places in the Counties of Guilford, Moore, Robeson, Columbus, Sampson, Johnston, Wilson, Nash, Halifax, Pitt, McDowell, Surry, Alamance, Vance, Rockingham, Randolph, Davidson, Montgomery and Davie, and applicant is presently operating and holding himself out to operate as a common carrier under such authority and has filed with the Commission a list of equipment used in such operation consisting of two tractors and 3 tanker-trailers.

2. That in addition to applicant's transportation business, applicant operates a Gulf Oil Company distributorship in and around the Town of Troy, North Carolina, located in Montgomery County and approximately 20 miles from the Town of Norman, North Carolina.

3. The Town of Norman, North Carolina is a small village located in Richmond County. The City Limits of which run to the Montgomery County line.

4. That in his operations as a Gulf distributor, applicant has for 35 years served customers in the Town of Norman, North Carolina and delivered Gulf Oil products to customers in Norman from his distributorship plant at Troy and served such customers by means of small tank trucks of 1500 gallon capacity, which trucks are not used in his operation as a common carrier.

5. That as a Gulf Oil distributor applicant has two principal customers in the Town of Norman, one being the lessee of a service station owned by the applicant with requirements of about 25,000 gallons of gasoline per month and the other being Troy Lumber Sales, a corporation, with requirements of approximately 10,000 gallons of No. 2 fuel oil per month. That these customers desire to buy their petroleum products in large lots with delivery by tank trailer direct from Gulf oil originating terminals rather than making more frequent purchases of small lots delivered

by applicant's 1500 gallon tank truck as a matter of convenience and economy to said customers.

6. That applicant has no objection to his customers purchasing their fuel directly from Gulf Oil Corporation, but would like the right to transport such fuel to them and collect the revenue derived from such transportation.

7. Gulf Oil Corporation gives its distributors, who have tanker-trailer equipment and appropriate operating authority, all the transportation business arising out of direct sales to customers within the distributor's territory.

8. That applicant seeks authority to transport Gulf Oil products from existing terminals to these two points in Norman and nowhere else, which points are located about .3 of a mile beyond applicant's existing authority to the Montgomery-Richmond County line.

9. Applicant cannot now serve these two customers in large tank trailer load lots due to the prohibition of Commission Rule No. R2-33 and if applicant is to continue serving these customers himself he must do so by use of his small tank truck to the inconvenience of himself, the customers, and the traveling public.

10. That the protestant, Schwerman Trucking Company, is authorized by its Certificate No. CP-31 to transport the commodities involved from existing originating terminals in North Carolina to all points and places in North Carolina, which, of course, includes the points in Norman involved in this application. Protestant, Schwerman Trucking Company, stands ready, willing and able to serve applicant's two customers in Norman as a common carrier. However, protestant has never hauled petroleum products into the Town of Norman and has not solicited the business of the customers of applicant in Norman, and protestant's witness stated in the record that there was no objection to the applicant serving the two customers he already has.

11. That the evidence adduced at the hearing will not support a Finding of Fact that public convenience and necessity requires that applicant be granted common carrier authority to serve the Town of Norman as requested in the application. However, the facts do tend to show justification for granting contract carrier authority for applicant to serve the lessee of his service station facilities in the Town of Norman and the facilities of Troy Lumber Sales in the Town of Norman and the Commission finds as a fact that it is vested with the authority, in its discretion, to grant such contract carrier permit under the existing applicable statutes and rules.

On the basis of the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

It appears obvious, from the application and the evidence, that applicant would have sought, in this docket, contract carrier authority to serve the two customers at Norman under contract with Gulf Oil Corporation except for the fact that applicant already holds certain common carrier authority covering the same commodities.

Commission Rule R2-10 gives the Commission the discretion to grant such authority as would appear to the Commission to be proper, that is either contract or common, regardless of the type authority actually applied for.

The Commission is fully cognizant of its Rule R2-27 which prohibits a common carrier from transporting any property as a contract carrier which it is authorized to transport as a common carrier and also G.S. 62-264, which provides as follows:

> "Dual Operations. - Unless the Commission, *<u>in its discretion</u>, finds that the public interest so requires, no person or any person controlling, controlled by, or under common control with such person, shall hold both a certificate as a common carrier and permit as a contract carrier."

* Emphasis added

It would appear to the Commission, however, that the facts and equities involved in the present situation would justify the Commission in exercising its discretion and the Commission does hereby waive the application of G.S. 62-264 for the reason that the public interest so requires and the Commission does hereby waive application of Rule R2-27 for the reason that compliance with said rule would be impracticable. The very purpose of Rule R1-30 is to permit the Commission to allow deviation from its rules where compliance would be impracticable and the very wording of G.S. 62-264 grants the Commission discretion, where the public interest so requires, to allow the same person to hold a certificate as a common carrier and permit as a contract carrier.

Applicant is a small operator whose primary business is the operation of a local Gulf Oil Distributorship at Troy, North Carolina. Applicant has for many years sold Gulf products through his distributorship to the lessee of a service station owned by him at Norman, North Carolina and to a long-time personal friend in the lumber business at Norman, N. C.

These two customers have an opportunity to purchase directly from Gulf Oil Corporation at its terminal the fuel products that they need at a savings to them. Applicant is agreeable to this, but would like to obtain the revenue to be derived from transporting such fuel and, if so authorized

by this Commission, can obtain the right to transport such commodities from Gulf Oil Corporation. There is no protest of applicant's continuing to serve these two customers. However, if the rules and statutes are to be strictly applied, the only way applicant can continue to serve these customers would be by frequent deliveries over a 40 miles round trip by means of a small capacity tank truck. This is inconvenient and more expensive, both to the applicant, and to his customers. Moreover, such frequent trips would place a greater burden and more traffic upon the highways.

It would not be profitable for applicant to invest in a tractor and tanker-trailer to serve these two customers from his distributorship at Troy and applicant is prohibited by Rule R2-33 from using his presently owned tractors and tanker-trailer for private carriage. Therefore, the Commission feels it is justified in exercising its discretion in regard to the application of G.S. 62-264 and Rule R2-27.

The facts in the case appear to fit within the requirements of G.S. 62-262(i) in that it appears that the proposed operations conform with the definition of a contract carrier; that the proposed operations will not unreasonably impair the service of carriers operating under certificates; that the proposed service will not unreasonably impair the use of the public highways; the applicant is fit, willing and able to perform the service as a contract carrier; that the proposed operations will be consistent with the public interest and that there are no facts tending to disqualify the applicant for a permit.

IT IS, THEREFORE, ORDERED That this Order shall authorize the applicant to operate as a contract carrier of Group 3 Commodities, petroleum and petroleum products in bulk in tank trucks from existing operating terminals at or near Wilmington, Morehead City, River Terminal, Thrift, Friendship, Salisbury, Apex, Fayetteville and Selma to the lessee of applicant's service station facilities at Norman, North Carolina and to Troy Lumber Sales at Norman, N. C. for and on behalf of Gulf Oil Corporation under written bilateral contract by and between Gulf Oil Corporation and applicant. Applicant shall, within 60 days of the date of this Order, file with the Commission a duly executed, written contract between himself and Gulf Oil Corporation covering the transportation of the commodities herein authorized to the consignees herein named and shall otherwise comply with all of the rules and regulations of the Commission covering contract carriers. Upon the filing of such contract and compliance with such rules and regulations and approval of such contract by the Commission, applicant shall be issued a contract carrier permit in accordance with this Order.

ISSUED BY ORDER OF THE COMMISSION.

This 21st day of April, 1969.

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

DOCKET NO. T-1484

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Lee Oil Company of Greensboro, Inc., 2600 Randleman Road, Greensboro, North Carolina, to engage in the transportation of Group 21, Petroleum Products, Packaged, and Sales Promotion Items, for Texaco, Inc., as a contract carrier	RECOMMENDED ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on December 5, 1969, at 2:00 P.M.

BEFORE: Marvin R. Wooten, Hearing Commissioner

APPEARANCES:

For the Applicant:

Robert B. Gentry, President
Lee Oil Company of Greensboro, Inc.
2600 Randleman Road
Greensboro, North Carolina

No Protestants

WOOTEN, HEARING COMMISSIONER: By application filed with the Commission on October 13, 1969, Lee Oil Company of Greensboro, Inc., 2600 Randleman Road, Greensboro, North Carolina, seeks a contract carrier permit to transport Group 21, Petroleum Products, Packaged, and Sales Promotion Items, from Greensboro, North Carolina, to Stokesdale, Walnut Cove, Winston-Salem, Advance, Thomasville, High Point, Randleman, Liberty, and Whitsett, North Carolina, under bilateral contract with Texaco, Inc.

Notice of the application, along with a description of the authority sought, together with the time and place of hearing was published in the Commission's Calendar of Hearings issued on October 15, 1969. No protests thereto were filed and no protestant appeared at the hearing which was held at the above time and place when previously continued to said time and place.

The applicant presented the testimony of its President, Mr. Robert B. Gentry, and of Mr. E. L. Fox, a representative of Texaco, Inc.

The evidence for the applicant tended to show that the applicant is a North Carolina corporation with officers and employees having many years experience in the movement of oil and petroleum products; that the applicant owns a number of trucks, one of which is and will be dedicated to the performance of the service contemplated by the application in this case; that the applicant is financially responsible and capable to properly conduct the transportation business contemplated; that there is no transportation available or offered by common carriers in the area here involved from which Texaco, Inc., can secure the needed service; that Lee Oil Company of Greensboro, Inc., has a bilateral contract with Texaco, Inc., for the movement and transportation of the commodities and in the area for which authority is here sought; and that the rates and charges agreed upon between the parties are comparable with common carrier rates and charges and the same are just and reasonable and competitive with common carrier rates and charges in this State.

The record in this case shows that this Commission on October 14, 1969, by order, granted to the applicant temporary operating authority identical to the permanent authority herein sought.

From the evidence presented, a portion of which is briefly set out above, the Commission makes the following

FINDINGS OF FACT

1. That the proposed operations conform with the definition of a contract carrier and will not unreasonably impair the efficient services of common carriers operating under certificates or common carriers by rail.

2. That the proposed service will not unreasonably impair the use of the highways by the public.

3. That the applicant owns the equipment and has the experience necessary for the operations as specified.

4. That the applicant is fit, willing, and able to properly perform the service proposed as a contract carrier and such operations will be consistent with the public interest and this State's transportation policy as required by law.

5. That it is the intent of the parties hereto that the applicant will transport the commodities of Texaco, Inc., from the said Texaco, Inc., directly to the customers of the said Texaco, Inc., in the territory described.

6. That the contract services under bilateral written contract with Texaco, Inc., for the commodities and in the territory described in Exhibit A hereto attached and made a part hereof, will be consistent with the public interest.

7. That the proposed operation will tend to effectuate the declared policy of the applicable law.

CONCLUSIONS OF LAW

That the applicant has satisfied the burden of proof required by the granting of the authority sought as described in Exhibit A attached hereto and made a part hereof, and that the application as therein set forth should be approved and the authority granted.

IT IS, THEREFORE, ORDERED:

1. That Lee Oil Company of Greensboro, Inc., 2600 Randleman Road, Greensboro, North Carolina, be, and it is, hereby granted a contract carrier permit in accordance with Exhibit A attached hereto and made a part hereof.

2. That the operations herein approved be commenced only when the applicant has complied with all the rules and regulations of the North Carolina Utilities Commission with respect to the filing of rates and charges, insurance coverage, and otherwise, all of which shall be done within thirty (30) days from the date that this order becomes final.

3. That temporary authority issued to the applicant in this docket by order dated October 14, 1969, be, and the same is, hereby cancelled, effective thirty (30) days from the date this order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 16th day of December, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1484

Lee Oil Company of Greensboro, Inc.
2600 Randleman Road
Greensboro, North Carolina

Contract Carrier Authority

EXHIBIT A

Transportation of Group 21, Petroleum Products, Packaged, and Sales Promotion Items, from Greensboro, North Carolina, to Stokesdale, Walnut Cove, Winston-Salem, Advance, Thomasville, High Point, Randleman, Liberty, and Whitsett, North Carolina, under bilateral contract with Texaco, Inc.

DOCKET NO. T-149, SUB 18

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Maybelle Transport Company, P. O. Box 461,) RECOMMENDED
Lexington, North Carolina) ORDER

HEARD IN: The Offices of the Commission, Raleigh, North Carolina, April 22, 1969, at 10:00 A.M.

BEFORE: E. A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

Thomas W. Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina

No Protestants

HUGHES, EXAMINER: By application filed with the Commission on February 3, 1969, Maybelle Transport Company (Applicant) seeks authority to engage in "transportation as a contract carrier by motor vehicle, over irregular routes, of ceramic products, and materials used in the manufacture, installation, repair, and maintenance of ceramic products, between Lexington, North Carolina, and points in North Carolina." Notice of said application, together with a description of the rights sought therein, along with the time and place of hearing, was published in the Commission's Calendar of Hearings issued February 21, 1969.

No protests were filed and no one appeared at the hearing in opposition thereto.

In support of its application, Applicant offered by reference its present intrastate operating authority, its list of equipment on file with the Commission, its latest annual report on file with the Commission and, for the record, exhibits attached to the application which tend to disclose the assets and liabilities of Applicant.

In addition, Applicant offered the testimony of Mr. C. Briggs Leonard, Custom Service Manager of Mid-State Tile Company, Lexington, N. C., which firm is engaged in the manufacture of tile. The testimony of witness is to the effect that its products are manufactured from raw materials which come mostly from points within North Carolina; that said raw materials are now being transported in shipper's own trucks; that special type pallets and conveyors furnished by the shipper are used for the loading and unloading of its products; that Applicant already holds interstate authority under which service is being provided

to neighboring states; that if the application herein is granted, Applicant will dedicate two (2) units with van type trailers to shipper for the intrastate transportation of its finished products and the return of pallets and conveyors as well as raw materials used in the manufacture of tile; that Applicant's service in connection with interstate shipments has been entirely satisfactory and that the specialized intrastate service herein proposed is needed by his company.

Applicant is presently authorized by this Commission to engage in dual operations and holds both a certificate as a common carrier and a permit as a contract carrier. Applicant's headquarters are at Lexington at which point the manufacturing plant of the shipper is also located. It appears further that Applicant has the equipment, is financially able and otherwise qualified to render the proposed service. A copy of the proposed contract between Applicant and shipper was filed as an Exhibit and received in evidence.

Upon consideration of the application and the evidence adduced, 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 the 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. 62-259 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 Contract Carrier Permit No. CP-12 now held by Maybelle Transport Company, Lexington, North Carolina, be, and the same is, hereby amended to include the authority particularly described in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Applicant file an executed copy of its contract with Mid-State Tile Company, otherwise comply with the 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 29th day of April, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-149 SUB 18

Maybelle Transport Company
P. O. Box 461
Lexington, North Carolina

Contract Carrier Authority

EXHIBIT A

Transportation as a contract carrier by motor vehicle, over irregular routes, of ceramic products, and materials used in the manufacture, installation, repair, and maintenance of ceramic products, between Lexington, North Carolina, and points in North Carolina, under contract with Mid-State Tile Company, Lexington, North Carolina.

DOCKET NO. T-448, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of J. D. McCotter, Inc., P. O. Box 937, Washington, North Carolina 27889) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on June 5, 1969, at 10:00 A.M.

BEFORE: Commissioners M. Alexander Biggs, Jr. (Presiding), Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina

No Protestants

WOOTEN, COMMISSIONER: By application filed with the Commission on April 16, 1969, J. D. McCotter, Inc., P. O. Box 937, Washington, North Carolina 27889 (Applicant), seeks authority as an irregular route common carrier to engage in the transportation of Group 21, Other Specific Commodities, to wit: Boats: (1) Inboard engine boats (Yachts, Cruisers, Sport Boats), (2) Outboard engine boats with or without power, (3) Inboard-outboard engine boats, and (4) Sailboats with or without power within the territory described as, "all points within the State of North Carolina."

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 April 17, 1969.

No protests to the granting of the application were filed with the Commission prior to the time of the hearing.

The record and evidence in support of the application tend to show that notice was given to all interested persons engaged in intrastate commerce; that reasonable opportunity has been given to all interested parties to protest and be heard; and that no protests in opposition to the granting of the authority applied for have been filed.

The applicant presented evidence tending to show that it is a corporation organized under the laws of the State of North Carolina; that it is in the concrete, cinder cement blocks, trucking and marina business; that it has considerable experience in intrastate motor transportation; that it owns equipment and is financially, willing and able to afford the service within the scope of the application in this case; that there are no common carriers in North Carolina affording the service here applied for; that public convenience necessity, need and demand require the service here proposed and applied for; that there is a large and substantial movement of boats in intrastate commerce for which there is no common carrier service available and which service the applicant proposes to perform; and that the need existing and the ability of the applicant to supply that need is fully statewide.

The Applicant, J. D. McCotter, Inc., presented four (4) witnesses: Joseph D. McCotter, Jr., Secretary-Treasurer of the applicant corporation, P. O. Box 937, Washington, North Carolina; Edward Calvin Smith, Jr., Greenville, North Carolina, President of National Boat Works, Inc.; Warren Whichard, Washington, North Carolina; a beach and marina operator; and J. D. McCotter, Sr., President of the applicant corporation, of Washington Park, Washington, North Carolina; all of which witnesses testified regarding the transportation needs in the State of North Carolina with reference to the movement of boats by individuals,

manufacturing, distributing, and repair shippers and receivers.

Upon the evidence adduced and after consideration of the entire record as a whole, the Commission makes the following

FINDINGS OF FACT

1. J. D. McCotter, Inc., is a corporation organized and existing under the laws of the State of North Carolina; that said applicant is in the trucking business intrastate in this State and also conducts other related business.

2. That public convenience and necessity requires the proposed service in addition to existing authorized transportation service; that the applicant is fit, willing and able to properly perform the proposed service, and that the applicant is solvent and financially able to furnish adequate service on a continuing basis.

3. That the applicant under Certificate No. C-259 holds general commodities irregular route common carrier authority between certain and various points in the eastern part of North Carolina.

CONCLUSIONS

G.S. 62-262(e) requires the applicant to carry the burden of proof to show to the satisfaction of the Commission that:

1. 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.

1. That the applicant has sustained the burden of proof placed upon it by the provisions of G.S. 62-262(e).

2. That the declared policy of the State of North Carolina with reference to motor carrier transportation requires or calls for the granting of the authority here sought.

Accordingly, IT IS ORDERED:

1. That the application in this docket be, and it is, hereby approved and the Applicant, J. D. McCotter, Inc., P.O. Box 937, Washington, North Carolina 27889, be, and it is, hereby granted the motor common carrier authority in accord with Exhibit B hereto attached.

2. This order shall operate as all necessary evidence of the authority herein granted pending the issuance of an amendment to the applicant's existing certificate by the Chief Clerk of this Commission pursuant hereto.

3. That the applicant file with the Commission a tariff of rates and charges, lists of equipment 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 June, 1969.

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

DOCKET NO. T-448 SUB 5

J. D. McCotter, Inc.
P. O. Box 537
Washington, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of Group 21, Boats:
(1) Inboard engine boats (Yachts, Cruisers, Sport Boats).

(2) Outboard engine boats with or without power.

(3) Inboard-outboard engine boats.

(4) Sailboats with or without power.

Between all points and places in the State of North Carolina.

DOCKET NO. T-1482

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of D. B. Merritt, 208 Orange Street, Wallace, North Carolina, for Contract Carrier Permit) RECOMMENDED ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on December 3, 1969, at 2:00 o'clock P.M.

BEFORE: E. A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

J. Ruffin Bailey
Bailey, Dixon, Wooten & McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina

No Protestants

HUGHES, EXAMINER: By application filed with the Commission on September 25, 1969, D. B. Merritt, 208 Orange Street, Wallace, North Carolina, seeks a contract carrier permit to engage in the transportation of Group 21, Merchandise and Supplies, between stores and warehouses of McMillan & Cameron located at Wilmington, Jacksonville, New Bern, Burgaw, Wallace and Lumberton, North Carolina, under bilateral contract with said McMillan & Cameron.

Notice of the application, reflecting the nature thereof and showing the time and place of hearing, was given in the Commission's Calendar of Hearings issued on October 15, 1969. No protests were filed and no one appeared at the hearing in opposition thereto.

It appears from the records of the Commission that at the time the permanent authority application was filed, Applicant sought and was issued temporary authority under G.S. 62-116, pending hearing and final determination of the application herein. Applicant is in full compliance with the rules and regulations of the Commission and has been serving McMillan & Cameron under said temporary authority since October 1, 1969.

It appears from the evidence that McMillan & Cameron Company (Shipper) has retail and wholesale stores at Wilmington, Jacksonville, New Bern, Burgaw, Wallace and Lumberton, North Carolina; that until operations were begun by Applicant under temporary authority hereinabove referred to, Shipper provided for transportation between and among said stores with its own fleet of vehicles in private carriage; that there is a constant need for inter-shipment of merchandise and wares between the various stores and locations; that said Shipper has decided that the most economical and proficient method of transporting said goods is found by the method presently in effect of utilizing the service of Applicant as a contract carrier; that all major shipments of merchandise from points of distribution or manufacture to Shipper and all sales that require transportation, are made through common carriers and that all inflow and outflow of merchandise will continue to be handled by common carriers; that Shipper deals primarily in auto parts, accessories and lubricants and that there is a definite need for inter-store and warehouse shipments to be made by Applicant, which service will be only supplemental to that afforded by common carriers.

The evidence further reveals that Applicant owns two (2) van type trucks which will be used in the operation; that Applicant has a net worth in the amount of $4,500 and that pursuant to temporary authority heretofore issued, Applicant already has on file with this Commission a bilateral written contract with Shipper, schedules of minimum rates and charges, evidence of insurance, lists of equipment and is otherwise in full compliance with the rules and regulations of this Commission.

Upon consideration of the application and the evidence adduced, 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 the 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. 62-259 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 D. B. Merritt, 208 Orange Street, Wallace, North Carolina, to engage in the transportation of Group 21, Merchandise and Supplies, as particularly described in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED That temporary authority issued to Applicant in this docket by order dated October 1, 1969, be, and the same is, hereby cancelled, effective thirty (30) days from the date this order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of December, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1482

Merritt, D. B.
Contract Carrier of Property
Wallace, North Carolina

EXHIBIT A

Transportation of merchandise and supplies between stores and warehouses of McMillan & Cameron located at Wilmington, Jacksonville, New Bern, Burgaw, Wallace and Lumberton, North Carolina, under bilateral contract between carrier and said McMillan & Cameron.

DOCKET NO. T-1470

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Brandon L. Mullis, P. O. Box 184, Albemarle, North Carolina - Group 5, Solid Refrigerated Products and Group 21, Exempt Commodities - Statewide) RECOMMENDED ORDER

HEARD IN: The Courtroom of the Commission, Ruffin Building, Raleigh, North Carolina, on August 27, 1969, at 2:00 P.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 June 24, 1969, Applicant seeks irregular route common carrier authority to engage in the transportation of Group 5, Solid Refrigerated Products and Group 21, Commodities exempted by statute or administrative order, between all points and places in North Carolina.

Notice of the application, along with the time and place of hearing, was published in the Commission's Calendar of Hearings issued July 1, 1969. No written protests were

filed and no one appeared at the hearing in opposition thereto.

Evidence tends to show that Applicant has been in the trucking business for nineteen (19) years and has experience in the transportation of exempt commodities and for the past eight (8) years, in the transportation of refrigerated commodities under lease to regulated carriers holding such authority; that Applicant owns two (2) tractors and three (3) refrigerated trailers and financially has a net worth in the amount of some $40,000.

The application is supported by Jubilee Salad Company of Greensboro, N. C.; Morton Frozen Foods of Kannapolis, N. C.; Charlotte Storage Warehouse of Charlotte, N. C.; and Canada Packers of Raleigh, N. C. Witnesses representing each of said shippers testified as to the inadequacy of existing intrastate refrigerated transportation service and to the great need for the service proposed by Applicant. Each of the supporting witnesses testified that the proposed service for the transportation of solid refrigerated products is needed on a statewide basis and will be used by the shippers whom they represent.

The privilege of filing a brief was waived by Applicant.

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 requires the service proposed in the application 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

Upon consideration of the evidence presented 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 sought and that said application should be granted.

IT IS, THEREFORE, ORDERED That the application of Brandon L. Mullis, P. O. Box 184, Albemarle, North Carolina, be, and the same is, hereby granted and that Applicant be issued a certificate including the authority particularly described in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Brandon L. Mullis 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 granted within thirty (30) days from the date that this order becomes final.

IT IS FURTHER ORDERED That Exemption Certificate No. E-12585, heretofore issued by Brandon L. Mullis, be, and the same is, hereby cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of September, 1969.

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

DOCKET NO. T-1470 Mullis, Brandon L.
Irregular Route Common Carrier
Albemarle, North Carolina

EXHIBIT B Transportation of Group 5, Solid Refrigerated Products and Group 21, Commodities exempted by statute or administrative order, between all points and places in the State of North Carolina.

DOCKET NO. T-1443

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Raleigh Delivery Service, Inc.,)
520 South Harrington Street, Raleigh, North Carolina) ORDER

HEARD IN: The Commission's Hearing Room, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on January 28, 1969, at 10:00 A.M.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten (presiding)

APPEARANCES:

For the Applicant:

Sheldon L. Fogel
Attorney at Law
604 Branch Bank Building
Raleigh, North Carolina

For the Protestants:

Clarence H. Noah
Attorney at Law
1425 Park Drive
Raleigh, North Carolina 27605
For: Package Delivery Service, Inc., of
Durham, N. C.

F. A. McCleneghan
McCleneghan, Miller, Creasy & Johnston
Attorneys at Law
923 Law Building
Charlotte, North Carolina 28202
For: Carolina Delivery Service Company, Inc.

WOOTEN, COMMISSIONER: By application filed with the Commission on October 31, 1968, Raleigh Delivery Service, Inc., 520 South Harrington Street, Raleigh, North Carolina, seeks contract carrier permit to transport Group 15, Retail Store Delivery Service, which group includes delivery of merchandise from retail stores to their customers within a specified area and return or exchange of such merchandise; and Group 20, Motion Picture Film and Special Service, which group includes the daily distribution of motion picture films, theatrical equipment, advertising and supplies, and the daily distribution of newspapers, magazines, and other dated periodicals within a defined area, in a territory to be served described as an area within a fifty mile radius of the City of Raleigh.

Notice of the application, along with a description of the authority sought, together with the time and place of hearing was published in the November 6, 1968, issue of the Commission's Calendar of Hearings. Protests thereto were timely filed by Package Delivery Service, Inc., of Durham, N. C., and Carolina Delivery Service, Inc., Raleigh, North Carolina. All parties were present and represented by counsel.

Applicant offered the testimony of two witnesses, to wit: James M. Morgan and Frank Daniels, Jr. James M. Morgan testified that he is the General Manager of Raleigh Delivery Service, Inc., 520 South Harrington Street, Raleigh, North Carolina; that his company in the past has been making package deliveries for merchants within the Raleigh commercial area, the same being within five (5) miles of the City of Raleigh; that their operation has included the delivery of newspapers, bundled papers, and newspapers to individual customers whose daily paper had not been received for both The News and Observer Publishing Company and The Raleigh Times; that they have also delivered microfilm and IBM cards for American Data Processing Company in said area; that they are affording an on-call type of delivery service in order to afford immediate service to local merchants; that Raleigh Delivery Service, Inc., purchased from West Brothers Transfer and Storage, Inc., some of their vehicles

and the good will of their package delivery service and holds contracts for package delivery for merchants in the Raleigh commercial zone; in connection with the purchase from West Brothers Transfer and Storage, Inc., that the applicant is continuing to afford the same service within the Raleigh commercial zone as that previously afforded by West; that Raleigh Delivery Service, Inc., has contracts for delivery in the Raleigh commercial zone with Hudson-Belk Company, Boylan-Pearce, Johnson's Jewelers, American Data Processing Company, The News and Observer Publishing Company and The Raleigh Times, all local merchants for delivery within the Raleigh commercial zone and for deliveries outside said zone within the authority here applied for, if and when such application is granted; that Raleigh Delivery Service, Inc., is, and proposes to afford delivery service of a type which has not been available in the past to them by contract carriers other than that previously afforded by West Brothers Transfer and Storage, Inc.; that they plan to make deliveries of parcels without weight limitation for retail delivery outside the Raleigh commercial zone and within the area for which permit is applied, and that such deliveries will include furniture, appliances, and other articles weighing in excess of 60 pounds; that they plan to transport educational film and materials as well as microfilm but do not plan transportation of motion pictures in the sense of movie theaters; that his company is ready, willing and able, to handle and transport goods within a radius of fifty (50) miles of Raleigh in accord with its application; that in his opinion the authority herein requested, if granted, would not impair the use of the highways by the general public; that his company owns eight (8) vehicles in size from Volkswagen to 2 1/2-ton trucks; that they plan to deliver only for persons with whom they have written contracts outside the Raleigh commercial zone; that the rates which they propose were established prior to the granting of common carrier certificate by the North Carolina Utilities Commission to Package Delivery Service, Inc., of Durham, N. C.; that his company has been operating in the Raleigh commercial zone prior and subsequent to the granting of common carrier rights to Package Delivery Service, Inc., of Durham, N. C.; that the rates which his company proposes to charge are competitive; that his company would not object to eliminating moving picture film under Group 20 since his company has no intention of hauling such commodities; that at the time his company purchased the good will of West Brothers Transfer and Storage, Inc., and some of their equipment, his company was the only service available to Raleigh retail merchants and was prior to Package Delivery Service, Inc., of Durham, N. C.'s entrance into this field of operation as a common carrier; and that the operations which his company proposes will conform with the definition of a contract carrier and will not unreasonably impair the efficient services of common carriers operating under certificates in view of the fact, among other things, that his company does not propose any load restrictions except for commodity classification, which in his opinion will afford a greater and needed service.

Frank Daniels, Jr., testified that he is an officer of The News and Observer Publishing Company as well as an officer of Raleigh Delivery Service, Inc.; that in his opinion there is a definite need for the services in this area which are proposed by the application of Raleigh Delivery Service, Inc., which he feels is substantiated, corroborated, and supported by contracts which they have filed in this proceeding; that the type of service which The News and Observer needs is not otherwise available in the area described; that the service herein proposed in his opinion is one of general need in said community; that in his opinion the operations of Raleigh Delivery Service will not unreasonably impair the efficient service of other carriers; and that he knows that the applicant owns the equipment and has the "know how" necessary for the operations as specified.

The applicant presented contracts for retail store delivery for American Data Processing Company, Hudson-Belk Company, Johnson Jewelers, Boylan-Pearce, The News and Observer Publishing Company, and The Raleigh Times; which said contracts apply to Group 15, "Retail Store Delivery Service", and Group 20, "Motion Picture Film and Special Service".

The Protestant, Package Delivery Service, Inc., of Durham, N. C., presented one witness, Mr. Louis M. Wade, who testified that he resides at 114 Briarcliff Road, Durham, North Carolina, and that he is Secretary-Treasurer and General Manager of Package Delivery Service, Inc., of Durham, N. C.; that his company under Certificate No. C-956 has common carrier authority authorized by the North Carolina Utilities Commission for the delivery of packages weighing 60 pounds or less within three counties in North Carolina and between all points in those three counties and those three counties are Wake, Durham and Orange which in some measure overlap with the authority applied for in this docket; that his company affords load limit common carrier service in this area by two-way radio equipped mobile units to facilitate expeditious service; that he obtained his authority from the Utilities Commission late in the year 1968 and immediately began service; that he feels that the granting of the authority herein requested would have a reducing effect on his company's revenues and thereby adversely affect the same; that he has no objection to authority being granted for the hauling of newspapers or packages or parcels in excess of 60 pounds in the area described; that he does not know and could not present figures showing the exact extent of the diminution affect on the revenue of his operation in the event the authority herein requested is granted; that approximately twenty per cent (20%) of his present business relates to the delivery of parcels from retail merchants weighing less than 60 pounds; and for the reasons stated objects to the granting of the authority herein requested.

Carolina Delivery Service, Inc., one of the protestants in this case, offered no evidence. However, after the completion of the evidence it was stipulated by and between Carolina Delivery Service, Inc., and the applicant, Raleigh Delivery Service, Inc., that the Commission should delete from any authority which it might be inclined to grant in this case, under permit or otherwise, any authority to transport commercial motion picture film, and upon such stipulation Carolina Delivery Service, Inc., withdrew its protest in this case.

FINDINGS OF FACT

From the evidence presented, a portion of which is briefly set out above, and based upon the stipulation agreed upon in open court, the Commission is of the opinion and finds:

(1) The proposed operations, as amended, conform with the definition of a contract carrier and will not unreasonably impair the efficient services of common carriers operating under certificates or common carriers by rail.

(2) The proposed service, as amended, will not unreasonably impair the use of the highways by the public.

(3) The applicant owns the equipment necessary for the operations as specified.

(4) The applicant is fit, willing, and able to properly perform the service proposed, as amended, as a contract carrier and such operations will be consistent with the public interest and the transportation policy as required by law.

(5) That contract carrier services under individual written contract with each shipper to be served for the commodities and in the territory described in Exhibit A hereto attached and made a part hereof, will be consistent with the public interest.

The foregoing findings of fact engender the following

CONCLUSIONS OF LAW

That the applicant has satisfied the burden of proof required for the granting of that portion of the authority described in Exhibit A attached hereto and made a part hereof, and that the application as limited therein should be granted.

IT IS, THEREFORE, ORDERED That Raleigh Delivery Service, Inc., 520 South Harrington Street, Raleigh, North Carolina, be, and it is, hereby granted contract carrier permit in accordance with Exhibit A 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 Exemption Certificate No. E-15455, heretofore issued to Raleigh Delivery Service, Inc., be, and it is, hereby cancelled.

IT IS FURTHER ORDERED That the operations herein be commenced only when the applicant has complied with all the rules and regulations of the North Carolina Utilities Commission with respect to filing of minimum rates and charges, insurance coverage, and otherwise, all of which shall be done within thirty (30) days from the date of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of March, 1969.

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

DOCKET NO. T-1443

Raleigh Delivery Service, Inc.
520 South Harrington Street
Raleigh, North Carolina

Contract Carrier Authority

EXHIBIT A

Transportation of Group 15, Retail Store Delivery Service, within an area described as being within a radius of fifty (50) miles of the City of Raleigh, North Carolina, under individual contract with Hudson-Belk Company, Boylan-Pearce, and Johnson's Jewelers.

Transportation of Group 20, Motion Picture Film and Special Service, within an area described as being within a radius of fifty (50) miles of the City of Raleigh, North Carolina, under individual contract with American Data Processing Company, The News and Observer and The Raleigh Times, but specifically excepting therefrom the authority to transport Commercial Motion Picture Film and equipment.

DOCKET NO. T-1457

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Clyde William Reeves, d/b/a Reeves Mobile Home Service, P. O. Box 571, Lake Junaluska, North Carolina) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Bldg., Raleigh, North Carolina

BEFORE: Clawson L. Williams, Jr., Hearing Commissioner

APPEARANCES:

For the Applicant:

Thomas P. McNamara, Esq.
Attorney at Law
P. O. Box 84, Raleigh, North Carolina

For the Protestants:

Earl W. Vaughan, Esq.
Attorney at Law
Vaughan & Harrington
109 W. Washington Street
Eden, North Carolina
For: Morgan Drive-Away, Inc.

Charles B. Morris, Jr., Esq.
Jordan, Morris & Hoke
Attorneys at Law
P. O. Box 1606, Raleigh, North Carolina
For: Transit Homes, Inc. and
National Trailer Convoy, Inc.

WILLIAMS, COMMISSIONER: By application filed with the Commission on March 11, 1969, Clyde William Reeves, d/b/a Reeves Mobile Home Service (Applicant), Lake Junaluska, North Carolina, seeks authority to engage in the transportation of Group 21, Mobile Homes or Houses or House Trailers over irregular routes between all points and places within the State of North Carolina.

Notice of the time and place of hearing together with a description of the authority sought was given in the Commission Calendar of Hearings issued March 20, 1969.

Within apt time, Protests and Motions to Intervene were filed by Morgan Drive-Away, Inc., 2800 West Lexington Avenue, Elkhart, Indiana, and National Trailer Convoy, Inc., 1925 National Plaza, Tulsa, Oklahoma.

All parties were present or represented by counsel.

At the call of the case, applicant, through its attorney, moved that the territory sought in the application be amended to read as follows:

"Application to move mobile homes over irregular routes between any points within the Counties of Madison, Haywood, Swain, Macon, Graham, Clay, Cherokee and Jackson as well as permission to move mobile homes over irregular routes from any point within these counties to any point within the State of North Carolina."

Inasmuch as the proposed amendment was restrictive rather than an enlargement or an extension of the scope of authority applied for, the motion to amend was allowed, whereupon, protestants announced that they would not oppose the application further.

Applicant's evidence tends to show that the public convenience and necessity require the proposed service within the area applied for and that applicant has the equipment and personnel to provide the services which said shippers require and is ready, willing and financially able to provide the requested service on a continuing basis.

Upon consideration of the application and the evidence adduced at the hearing the Commission makes the following

FINDINGS OF FACT

1. That the applicant is fit, ready, willing and able financially and otherwise, to properly perform the services proposed by the amended application.

2. That public convenience and necessity requires the proposed services in addition to existing authorized transportation service.

3. That the applicant is solvent and is financially able to provide the proposed services in a satisfactory manner on a continuing basis.

CONCLUSIONS

Based upon the record in this docket, it is the conclusion of the Commission that the applicant has carried the burden of proof required for the granting of the authority sought and such authority should be granted. There was sufficient evidence presented by the applicant that public convenience and necessity requires the authority sought by the applicant in his amended application.

There was also ample evidence that applicant is solvent and is fit, ready, willing and able financially, and otherwise to perform the necessary services.

IT IS, THEREFORE, ORDERED That the application as amended of Clyde William Reeves, d/b/a Reeves Mobile Home Service,

P. O. Box 571, Lake Junaluska, North Carolina, be and the same is, hereby granted to include the authority shown by the amended application and more particularly described in Exhibit B hereto attached and

IT IS FURTHER ORDERED That Clyde William Reeves, d/b/a Reeves Mobile Home Service file with the Commission a tariff of rates and charges, evidence of the required insurance, list of equipment, designation of process agent and otherwise comply with the rules and regulations of the Commission and institute operations under the authority herein granted within thirty days from the date that this Order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1457

Clyde William Reeves, d/b/a Reeves Mobile Home Service
P. O. Box 571
Lake Junaluska, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of mobile homes over irregular routes between any points within the Counties of Madison, Haywood, Swain, Macon, Graham, Clay, Cherokee and Jackson as well as permission to move mobile homes over irregular routes from any point within these counties to any point within the State of North Carolina.

DOCKET NO. T-1367, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Schwerman Trucking Company)
To Transport Group 21, Salt in Bulk, From)
Points and Places in New Hanover County) ORDER
to all Points and Places in North Carolina)

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on June 6, 1969, at 9:30 A.M.

BEFORE: Commissioner Clawson L. Williams, Jr. (Presiding) and Commissioners M. Alexander Biggs, Jr. and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Ralph McDonald, Esq.
Bailey, Dixon & Wooten
1012 Insurance Building
Raleigh, North Carolina

For the Protestant:

James C. Little, Esq.
Frank B. Liggett, Esq.
Hatch, Little, Bunn & Jones
P. O. Box 527, Raleigh, North Carolina
For: Central Transport, Inc.

WILLIAMS, COMMISSIONER: By application filed with the Commission on March 27, 1969, Schwerman Trucking Co. (Applicant), 611 South 28th Street, Milwaukee, Wisconsin 53246, seeks authority to amend its Certificate No. CP-31 to include authority as an irregular route common carrier of Group 21, Salt, in bulk, from points in New Hanover County, North Carolina, to all points and places in North Carolina.

Notice of said application together with a description of the authority sought and the time and place of hearing was published in the Commission's Calendar of Hearings issued on April 17, 1969.

Within apt time, Protest and Motion to Intervene was filed by Central Transport, Inc., High Point, North Carolina.

All parties were present and represented by counsel. Evidence in support of the application tends to show that the applicant is a corporation engaged in the common carrier by truck business and holds both interstate Common Carrier Certificate No. MC-124078 and Intrastate Certificate No. CP-31; that applicant is a major hauler of bulk commodities in the United States and parts of Canada, with its major terminal in North Carolina located in Wilmington; that applicant holds authority in North Carolina for the transportation of petroleum products, liquid fertilizer and cement primarily; that the applicant has based in North Carolina approximately 53 tractors, 31 dry tanks and one dump hauler, such equipment being based at Wilmington, North Carolina, and Greensboro, North Carolina, and has 35 dump units in the eastern half of the United States; and that the applicant would be willing to transfer additional equipment to Wilmington to serve the needs of the public if the authority sought was granted or would be willing to acquire new equipment, if necessary.

Applicant offered testimony of officials of Carolina Salt Company, Wilmington, North Carolina, to the effect that Carolina Salt Company imports salt into the state docks at Wilmington, treats it, processes it, and ships the commodity

from Wilmington throughout the state and to other states; such commodity is used for the removal of highway ice and snow, by the pickle industry, by water treatment plants, chemical industries, water softening companies and feed manufacturers; that approximately 30,000 Tons is sold intrastate from the plant at Wilmington; that such salt is often sold under strict agreements as to time of delivery and the shipper frequently needs transportation services available on short notice; that at times the shipper has experienced delays in obtaining equipment to ship its products due to the unavailability of equipment or the delay in receiving equipment from distant terminals; that applicant is located close to the shipper's plant at Wilmington and applicant has adequate equipment to handle the shipper's needs.

Upon consideration of the application, the testimony and evidence of record adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That public convenience and necessity requires 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 provide satisfactory service on a continuing basis.

CONCLUSIONS

Based upon the record, the evidence presented in this docket and the foregoing Findings of Fact, it is the conclusion of the Commission that the applicant has carried the burden of proof required for the granting of the authority sought and that the authority should be granted.

IT IS, THEREFORE, ORDERED That the application of Schwerman Trucking Co. in this docket be, and the same is, hereby granted and that Certificate No. CP-31 is hereby amended to include the authority particularly described in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Schwerman Trucking Co. file with the Commission a tariff of rates and charges, evidence of the required insurance, list of equipment, designation of process agent and otherwise comply with the rules and regulations of the Commission and institute operations under authority herein granted within thirty (30) days from the date that this Order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of June, 1969.

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

DOCKET NO. T-1367 SUB 4

Schwerman Trucking Co.
611 South 28th Street
Milwaukee, Wisconsin 53246

Irregular Route Common Carrier Authority

EXHIBIT B

Commodity Description: Group 21, Salt, in bulk

Territory Description: From points and places in New Hanover County, North Carolina, to all points and places in North Carolina

DOCKET NO. T-1467

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Bryan Lee Stanley, d/b/a Stanley Mobile Home Movers, Route 2, Box 259-D, Newport, North Carolina) RECOMMENDED ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Bldg., Raleigh, North Carolina, on August 7, 1969

BEFORE: Clawson L. Williams, Jr., Hearing Commissioner

APPEARANCES:

For the Applicant:

Vernon F. Daughtridge
Attorney at Law
P. O. Box 885, Wilson, North Carolina

WILLIAMS, HEARING COMMISSIONER: Bryan Lee Stanley, d/b/a Stanley Mobile Home Movers, Route 2, Box 259-D, Newport, North Carolina, filed its application with this Commission on June 11, 1969, seeking irregular route common carrier authority for the transportation of mobile homes within a 50 mile radius of Morehead City, which would include all of Carteret County, plus a radius of approximately 20 miles in the southwest portion of Onslow County and approximately 20 miles in the northwest portion of Craven County.

Notice of said application was given in the Commission's Calendar of Hearings issued on July 18, 1969, setting this matter for hearing on Thursday, August 7, 1969 at 9:30 A.M.

No protests were filed and no one appeared at the hearing in opposition thereto.

The applicant testified at the hearing that he is now employed by Connor Corporation of Morehead City, North Carolina and that his duties include pulling, setting up and servicing mobile homes; that there are numerous mobile home parks within a 50 mile radius of Morehead City; that to his knowledge there is no one engaged at the present time in the business of moving these mobile homes; and that he has the equipment required to render the needed service.

Applicant also presented the testimony of Clifton Earl Nelson, Branch Manager for Connor Mobile Homes, who testified that the applicant is well qualified to move mobile homes and that a need does exist for such service in the area applied for.

From the evidence presented, a portion of which is briefly set out above, and the exhibits presented at the hearing, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. That the applicant owns the necessary equipment for the movement of mobile homes.

2. That the applicant is experienced in the movement of mobile homes and in the use of the equipment for the hauling thereof for which authority is sought.

3. That the applicant is fit, willing and able, financially and otherwise to properly perform the services proposed on a continuing basis.

4. That public convenience and necessity requires the proposed service in addition to existing authorized transportation service.

CONCLUSIONS

Based upon the record, the evidence presented at the hearing and the foregoing Findings of Fact, it is the conclusion of the Hearing Commissioner that the applicant has carried the burden of proof required for the granting of the authority sought and that the authority should be granted.

IT IS, THEREFORE, ORDERED That the application of Bryan Lee Stanley, d/b/a Stanley Mobile Home Movers, in this docket be, and the same is, hereby granted to include the authority particularly described in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED That Bryan Lee Stanley, d/b/a Stanley Mobile Home Movers file with the Commission a tariff of rates and charges, evidence of the required insurance,

list of equipment, designation of process agent and otherwise comply with the rules and regulations of the Commission and institute operations under authority herein granted within 30 days from the date that this Order becomes final.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of August, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1467

Bryan Lee Stanley, d/b/a Stanley Mobile Home Movers
Route 2, Box 259-D
Newport, North Carolina

EXHIBIT B

Irregular Route Common Carrier Authority

Commodity Description: Group 21, Mobile Homes

Territory Description: Operate within a 50 mile radius of Morehead City, which would include all of Carteret County, plus a radius of approximately 20 miles in the southwest portion of Onslow County and approximately 20 miles in the northwest portion of Craven County.

DOCKET NO. T-1072, SUB 2

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Sugar Transport, Inc.,) RECOMMENDED
Port Wentworth, Georgia) ORDER

HEARD IN: Courtroom of the Commission, Raleigh, North Carolina, on Tuesday, October 7, 1969

BEFORE: E. A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

F. Kent Burns
Boyce, Burns & Smith
Attorneys at Law
P. O. Box 1406, Raleigh, North Carolina

J. A. Kundtz
Falstraf, Kundtz, Reidy & Shoup

Attorneys at Law
1050 Union Commerce Building
Cleveland, Ohio

For the Protestants:

Tom W. Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
For: Maybelle Transport Company
Central Transport, Inc.
Chemical Lehman Tank Lines, Inc.

HUGHES, EXAMINER: By application filed with the Commission on August 6, 1969, Sugar Transport, Inc., Port Wentworth, Georgia (Applicant), seeks appropriate contract carrier authority under the Public Utilities Act to engage in the transportation of the following described commodities from and to the points indicated:

1. Liquid and invert sugar, corn sweetners and blends of corn sweetners with liquid and invert sugar, in tank vehicles, from Wilmington, N.C., to all points and places in North Carolina.

2. Dextrose, in bulk, in tank vehicles, from Lexington, N. C., to Wilmington, N. C.

3. Liquid or dry sweetners and blends of sweetners, in bulk, in tank vehicles, from Lexington, N. C., to all points in North Carolina.

Notice of said application with a description of the authority sought, together with the time and place of hearing, was published in the Commission's Calendar of Hearings issued August 19, 1969. Within apt time, joint protests to the granting of said application was filed by Maybelle Transport Company, Lexington, North Carolina, Central Transport, Inc., High Point, North Carolina, and Chemical Lehman Tank Lines, Inc., Downingtown, Pennsylvania.

All parties were present at the hearing and represented by counsel.

It appears from the application and the records of the Commission that Applicant is a corporation duly organized and existing under the laws of the State of Georgia and that Applicant is presently the holder of Contract Carrier Permit No. P-130 heretofore issued by this Commission authorizing the transportation of liquid and invert sugar from the terminals of The Savannah Sugar Refining Corporation (hereinafter referred to as Shipper), at or near Wilmington, North Carolina, under individual contract with said Shipper, to points and places throughout the State of North Carolina, with no transportation for compensation on return. It further appears that in numbered Paragraph 1 of the

authority sought, Applicant seeks only to amend its existing authority to include the commodities "corn sweetners and blends of corn sweetners with liquid and invert sugar".

The evidence in support of the application tends to show that in addition to its existing North Carolina intrastate authority, Applicant operates in nine (9) states as a contract carrier for the Shipper under authority of the respective states and of the Interstate Commerce Commission; that its entire operation, equipment and everything is dedicated to the Shipper for the transportation of its products; that the application herein was filed at the request of the Shipper to meet a new development in the Shipper's business; that the Shipper has recently spent a quarter of a million dollars at its Wilmington terminal for construction of the necessary facilities for handling, blending and shipping invert sugar blended with dextrose and with corn syrup, this being a new product not heretofore shipped out of the Wilmington terminal; that Applicant's facilities are located on the property of Shipper at Wilmington and that Applicant, although independently owned, is actually an integral part of Shipper's operations; that Shipper's trademark "Dixie Crystals" appears on each side of the Applicant's trailers, and that Applicant's drivers are required by Shipper to be uniformed and to keep themselves neat and well dressed.

The evidence for Applicant and the records of the Commission further tend to show that Applicant has served Shipper out of its Wilmington terminal since 1958 and that since that time, Shipper has used Applicant's service almost exclusively for the transportation of liquid and invert sugar from Wilmington to its customers in North Carolina; that the proposed operations out of Lexington under authority proposed in numbered Paragraphs 2 and 3 would be an altogether new operation whereas the authority sought in Paragraph 1 would merely broaden the existing commodity description to include the new types of sweetners which will be produced at Wilmington.

The application is supported by Shipper, whose traffic manager testified that his company wishes to use the service of Applicant out of Lexington, as well as Wilmington, for the reason that it is the desire of his company to have as much control as possible over the transportation because of sanitation requirements, and for the further reasons that the commodity, dextrose, is a difficult commodity to handle and requires special equipment and the maintenance of certain temperatures, and that such would provide Applicant with a backhaul in connection with other such deliveries from Wilmington.

There was no evidence of any present need for the transportation of dry sweetners.

Protestants argue and contend that the granting of the authority sought by Applicant would have an extreme adverse

effect on their operations, and in particular the operation of Protestant, Maybelle Transport Company (Maybelle); that Maybelle began transporting liquid sugar products out of Lexington in January, 1969; that in order to be assured that it would have adequate equipment available for handling said operation, Maybelle has purchased six (6) additional tank trucks and has three (3) more tank trucks on order; that in addition to the purchase of the trailers, Maybelle has also increased its tractor fleet by six (6) tractors during 1969; that during the nine (9) month period from January 1, 1969, to September 1, 1969, Maybelle hauled approximately 550 loads of liquid sweetner commodities out of Lexington, bringing in approximately $95,000 in revenue; that in addition to the immediate effect on Maybelle if the authority is granted, it and all of the Protestant common carriers would be deprived of the potential for increased activity in the transportation of liquid sweetner commodities and the resultant more efficient utilization of their equipment; that to grant a contract carrier permit under such circumstances solely because of the desires and preferences of a major shipper of liquid sweetners would not be consistent with the public interest and would, in fact, be contrary to the transportation policy as declared in the North Carolina Public Utilities Act.

Briefs were filed.

Upon consideration of the record, the evidence adduced and the able briefs filed by Counsel, the Hearing Examiner makes the following

FINDINGS OF FACT

(1) That the proposed operation, insofar as it relates to the transportation of corn sweetners and blends of corn sweetners with liquid and invert sugar, in tank vehicles, from Wilmington, North Carolina, to all points and places in North Carolina, conforms with the definition in the Public Utilities Act of a contract carrier,

(2) That the proposed operation out of Wilmington will not unreasonably impair the efficient service of carriers operating under certificates, or rail carriers,

(3) That the proposed service out of Wilmington will not unreasonably impair the use of the highways by the general public,

(4) That the Applicant is fit, willing and able to properly perform the service proposed,

(5) That the proposed operation out of Wilmington will be consistent with the public interest and the policy declared in the Public Utilities Act, and

(6) That the proposed operation out of Lexington, as described in Paragraphs 2 and 3 of the application, would

tend to impair the efficient service of carriers operating under certificates and should be denied.

CONCLUSIONS

The Commission's Rule R2-15(b) provides as follows:

"(b) If the application is for a permit to operate as a contract carrier, proof of a public demand and need for the service is not required; however, proof is required that one or more shippers or passengers have a need for a specific type of service not otherwise available by existing means of transportation, and have entered into and filed with the Commission, prior to the hearing or at the time of the hearing, a written contract with the applicant for said service, which contract shall provide for rates not less than those charged by common carriers for similar service." (Underscoring added)

In this proceeding, the evidence establishes that Applicant proposes, under the authority sought in Paragraph 1, to continue to offer a dedicated service for a single shipper which it is now serving in a similar manner under existing authority heretofore granted by this Commission. The only change from the existing authority would be the addition of two commodities which are in all material respects almost identical with those presently authorized. The Commission has previously held in granting the existing authority that the operation from Wilmington met the criteria set forth in G.S. 62-262(i). The granting of the application for authority to transport two additional commodities from the terminal of Savannah Sugar Refining Company at Wilmington would not adversely effect or impair the operations of carriers operating under certificates or rail carriers for the simple reason that none of said carriers are serving the Shipper at this time and Shipper has indicated that if the application to broaden the commodity authority from Wilmington is not granted, in all likelihood, Shipper will enter into a private carriage arrangement.

On the other hand, Applicant, under that portion of the application as described in Paragraphs 2 and 3 from Lexington, proposes an altogether new operation which, if granted, would very obviously impair the efficient service now being provided by Protestant, Maybelle Transport Company. No showing was made that Maybelle Transport Company and other protesting carriers were not providing adequate and efficient service out of Lexington or that the Shipper required any specific type of service from this point that is not already available by existing means of transportation. In fact, the Shipper's witness testified that if the authority was granted and Applicant did not have a vehicle in the vicinity of Lexington, the services of common carriers would be used.

Upon consideration of the evidence presented herein in the light of the criteria set forth in G.S. 62-262(i), the Hearing Examiner concludes that Applicant has borne the burden of proof required insofar as the proposed operation from Wilmington is concerned and that a grant of the authority applied for in Paragraph 1 is warranted; and that in all other respects the application should be denied.

IT IS, THEREFORE, ORDERED:

That Contract Carrier Permit No. P-130 heretofore issued to Sugar Transport, Inc., Port Wentworth, Georgia, be, and the same is, hereby amended to conform with Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED:

That said application, except to the extent granted herein, be, and it is, denied.

IT IS FURTHER ORDERED:

That Applicant comply with the applicable rules and regulations of this 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 14th day of November, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. T-1072 SUB 2 — Sugar Transport, Inc.
Contract Carrier of Property
Port Wentworth, Georgia

EXHIBIT A — Transportation of liquid and invert sugar, corn sweetners and blends of corn sweetners with liquid and invert sugar, in tank vehicles, from the terminals of The Savannah Sugar Refining Corporation at or near Wilmington, North Carolina, under individual contract with said Savannah Sugar Refining Corporation, to points and places throughout the State of North Carolina, with no transportation for compensation on return.

DOCKET NO. T-1462

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Wachovia Courier Corporation, Wachovia Building, Winston-Salem, North Carolina, for Contract Carrier Authority to Transport Group 21, Cash Letters, Commercial Papers, Documents and Records, Bank Stationery, Sales, Payroll and Other Accounting, Audit and Data Processing Media, and Business, Institutional and Governmental Records (except currency, coin, and bullion) between all points and places in North Carolina	ORDER

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on August 12, 1969

BEFORE: Commissioners Clawson L. Williams, Jr. (Presiding), John W. McDevitt and M. Alexander Biggs, Jr.

APPEARANCES:

For the Applicant:

The Honorable Dan K. Moore
Joyner, Moore & Howison
Attorneys at Law
P. O. Box 109, Raleigh, North Carolina

James M. Kimzey, Esq.
Joyner, Moore & Howison
Attorneys at Law
P. O. Box 109, Raleigh, North Carolina

John Guandolo, Esq.
Macdonald & McInerny
Attorneys at Law
1000 16th Street, NW
Washington, D. C. 20036

For the Protestant:

Tom Steed, Jr., Esq.
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina

WILLIAMS, COMMISSIONER: Wachovia Courier Corporation, Wachovia Building, Winston-Salem, North Carolina, filed application on June 13, 1969, for authority as a contract carrier to transport the following commodities:

Group 21. Cash letters, commercial papers, documents and records, bank stationery, sales, payroll and other

accounting, audit and data processing media, and business, institutional and governmental records (except currency, coin and bullion).

Territory Description: Between all points and places in North Carolina

The application was scheduled for hearing on August 12, 1969, and Notice thereof was published in the Calendar of Hearings issued on May 8, 1969 and hearing was held as captioned. Protest and Motion for Intervention was filed on June 13, 1969 by American Courier Corporation, 2 Nevada Drive, Lake Success, New York 11040.

Wachovia Courier Corporation is a North Carolina Corporation organized in May, 1969, as a wholly owned subsidiary of the Wachovia Corporation. Wachovia Bank and Trust Company, N.A. operates a private courier system for the transportation of cash letters and other types of commercial paper, documents and written instruments, in addition to data processing media moving between branch banks and the parent bank; between the correspondent bank and its correspondents or through the Federal Reserve Bank system for presentation. Wachovia Bank and Trust Company, N.A. will transfer the assets and personnel of the private courier department to Wachovia Courier Corporation to provide an experienced and well-equipped nucleus to meet its obligations as a contract carrier.

The applicant presented the testimony of W. Brooks Mewborn, President of Wachovia Courier Corporation and Assistant Vice-President and Manager of the Transportation Department of Wachovia Bank and Trust Company, National Association, who testified as to the operation of the present private courier system of Wachovia Bank and Trust Company for the transportation of cash letters and other types of commercial paper, documents and written instruments in addition to data processing media over complex routes and on special schedules. Wachovia Services, Inc. is a wholly owned subsidiary of the Wachovia Corporation and provides its own private courier system for its customers in its business of selling computer services to banks and commercial firms. The present operation of the private courier systems of both subsidiaries has reached such size and complexity that it can best be operated as an independent subsidiary of the parent corporation, and in this way provide more economical and satisfactory service. Public transportation by a certificated common carrier is not available to perform the services proposed in the application.

Stebbins B. Ingram, President of Wachovia Services, Inc., testified that Wachovia Services, Inc. provides data processing services to commercial customers and other banks throughout its trade area and that the transportation services of buses, trains and the U. S. Mail have proven to be unsatisfactory for their purposes and there is no common

carrier service available to meet such needs. Wachovia Services, Inc. has entered into a contract with Wachovia Courier Corporation to provide the transportation services applied for in the application.

G. Dodson Mathias, Vice-President of Wachovia Bank and Trust Company National Association, Wachovia Building, Winston-Salem, North Carolina, testified that Wachovia Bank is a statewide bank and operates throughout the State of North Carolina with 119 offices located in 43 cities and towns. Wachovia Bank and Trust Company is in need of the services proposed in the application and has entered into a contract with Wachovia Courier Corporation to provide these services.

Several other witnesses representing banks which have negotiated bilateral contracts with Wachovia Courier Corporation for the proposed service testified in support of the application.

The Protestant, American Courier Corporation, holds North Carolina Contract Carrier Permit No. P-131 issued by this Commission authorizing it to operate as a contract carrier over irregular routes under individual written contracts with shippers between all points and places within the State of North Carolina in the transportation of various commodities including the following:

"(1) Commercial papers, documents, written instruments and inter-office communications, except coin, currency and negotiable securities, ordinarily used by banks and banking institutions, between banks and banking institutions and branches thereof, between all points and places within the State of North Carolina, pursuant to bilateral contracts with banks and banking institutions, as authorized in Order of this Commission dated May 20, 1958, in Docket No. T-1077.

(2) Checks, business papers, records and audit and accounting media of all kinds (except plant removals), bank checks, check books, drafts and other bank stationery, pursuant to individual bilateral contracts or agreements, between all points and places within the State of North Carolina, as authorized by Order of this Commission dated July 2, 1964, in Docket No. T-1077, Sub 4."

American Courier offered the testimony of John Sinnott, Regional Vice-President, who testified that American Courier operates extensively as a contract carrier in North Carolina and in some 40 states and Canada; that it is a subsidiary of Purolator, Incorporated, Rahway, New Jersey; that it operates as a contract carrier over 32 routes and serves 439 separate banks, plus approximately 50 commercial establishments in North Carolina. Protestant contends that the Applicant should not be permitted to compete with

American Courier as the granting of the proposed application would adversely affect the business of American Courier.

Based on the evidence adduced, the Commission makes the following

FINDINGS OF FACT

1. The Applicant, Wachovia Courier Corporation, is a duly organized North Carolina corporation and subsidiary of the Wachovia Corporation, authorized by its charter to engage in the business of general transportation.

2. The proposed operations of Wachovia Courier Corportion conform with the definition of a contract carrier by motor vehicle; will not unreasonably impair the efficient service of carriers operating under certificates or rail carriers; will not unreasonably impair the use of the highways by the general public; and the applicant is fit, willing and able to perform the proposed service as a contract carrier.

3. The proposed operation will be consistent with the public interest and the policy declared in Chapter 62 of the General Statutes of North Carolina.

4. Applicant, Wachovia Courier Corporation, has entered into bilateral contracts for the proposed services with Bank of Reidsville, Commercial and Farmers Bank, The Planters National Bank and Trust Company, Southern National Bank of North Carolina, First National Bank of Eastern North Carolina, Waccamaw Bank and Trust Company, Wachovia Bank and Trust Company, N. A., and Wachovia Services, Inc.

5. The Protestant, American Courier, is a contract carrier by motor vehicle operating under a permit issued by the Utilities Commission under the provisions of G.S. 62-262(h)(i) and performs services in North Carolina as a contract carrier as defined in G.S. 62-3(8) and G.S. 62-3(9), and as a contract carrier, does not hold itself out to serve the public generally as a common carrier and is not a carrier operating under a certificate of the Commission within the provisions of G.S. 62-262(i)(2).

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

We deem it sufficient to recite in this Docket the following language contained in the conclusion of the Order dated August 1, 1969 in Docket No. T-1445, a case almost identical to the present case:

"Applicant, First Courier Corporation, has borne the burden of proof that there is a public need by several shippers for the proposed service which conforms to the

definition of a Contract Carrier by Motor Vehicle contained in G.S. 62-3(8). Bilateral contracts between the Applicant and shippers have been filed in accordance with Commission Rule R2-15. The Commission is of the opinion and concludes that the Applicant has fulfilled the requirements of the Public Utilities Act and the rules and regulations of the Commission and is entitled to a contract carrier permit authorizing it to perform the proposed transportation service.

The Commission has given consideration to the protest of American Courier and to the testimony offered by American Courier with respect to its operations in North Carolina and cannot find that the proposed operations of the Applicant will improperly or unlawfully interfere with or impair any rights granted to existing contract carriers under the Public Utilities Act. Contract carriers holding permits under G.S. 62-262 are not afforded the same protection in their permit authority from subsequent applications as the Public Utilities Act affords to common carriers operating under certificates issued under the Public Utilities Act. A common carrier is given certain protection in its franchise area consistent with the duty and obligation of the common carrier to provide service to the public under rates and charges on file with the Utilities Commission and regulated by the Utilities Commission. The common carrier must provide service on call and demand to all of the public at published regulated rates and in return for the obligation and duty to provide such service the common carrier is granted certain franchise protection of the Public Utilities Act so long as it is able to adequately serve the public. The contract carrier, on the other hand, is not required to serve anyone and does not serve anyone except those that it voluntarily enters into contracts with for motor carrier service. The contract carrier's minimum rates are on file with the Commission, but it is not required to provide service at such minimum rates and may decline to enter into a contract except at such rates as it desires to negotiate in any particular contract. The Public Utilities Act does not place the same burden and obligation upon contract carriers as it places upon common carriers to provide service in their service area and, by the same token, it does not provide the same franchise protection afforded to common carriers. A protesting contract carrier is permitted to intervene and its protest is heard primarily under the provisions of G.S. 62-262(i)(5) on the requirement that the Commission give consideration in permit applications to "whether the proposed operations will be consistent with the public interest and the policy declared in this chapter". The Commission has given due consideration to the proposed operations and finds that they are consistent with the public interest and with the policy declared in the Public Utilities Act, i.e., Chapter 62 of the General Statutes. The Commission concludes that it would not be in the public interest to deny the application based upon the

desire of the Protestant, American Courier, for protection from another contract carrier of bank documents in securing authority to engage in similar transportation of bank documents as a contract carrier. The protection of one contract carrier of bank documents from any competition when the contract carrier has no duty and obligation to serve the public would be contrary to the public interest. The Protestant, American Courier, is free to pick and choose the banks and other customers shipping bank documents which it desires to serve, and it is free under its permit to offer its services to selective banks or bank chains to the exclusion of other banks or bank chains. To deny the Applicant's permit for contract authority to contract with such other banks and similar shippers who do not enter into contracts with American Courier would be to authorize arbitrary power of American Courier to confer its services upon such bank or bank chains as it chooses at unregulated contract rates and would leave other banks and banking customers without recourse to for hire motor carrier service as contemplated under the contract carrier permit authority provided in the Public Utilities Act."

The foregoing language clearly states the Commission's interpretation of the law as applied to the facts of the present case.

The contention of the protestant that the proposed operations of the applicant may be in violation of State or Federal banking laws or policies is not properly raised before this forum. It is not the function of this Commission to determine nor interpret banking law or policy.

IT IS, THEREFORE, ORDERED That the application of Wachovia Courier Corporation in this docket be and it is hereby approved and that a contract carrier permit be issued to Wachovia Courier Corporation in accordance with Exhibit A attached hereto and made a part hereof.

IT IS FURTHER ORDERED That service under the contract carrier permit begin when Wachovia Courier Corporation has filed with the Commission evidence of liability insurance coverage, copies of contracts, not heretofore filed, containing rates and charges which shall be not less than the rates and charges approved or prescribed by the Commission for common carriers performing similar service, and has otherwise complied with the rules and regulations of the North Carolina Utilities Commission all of which shall be done within 60 days from the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1462

Wachovia Courier Corporation
Wachovia Building
Winston-Salem, North Carolina

CONTRACT CARRIER AUTHORITY

Group 21. Cash letters, commercial papers, documents and records, bank stationery, sales, payroll and other accounting, audit and data processing media, and business, institutional and governmental records (except currency, coin, and bullion)

DOCKET NO. T-1096, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Wilson Merchant Delivery Service, Inc., to Operate as a Contract Carrier Under Individual Written Contract with The Reuben H. Donnelley Corporation, Elm City, N. C., to Deliver from Raleigh-Durham Airport in Wake County to Elm City, N. C., the Goods, Wares, Advertising and Promotional Materials of The Reuben H. Donnelley Corporation) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina on July 24, 1969

BEFORE: Commissioner Clawson L. Williams, Jr. (Presiding), Chairman Harry T. Westcott and Commissioner Marvin R. Wooten

APPEARANCES:

For the Applicant:

W. C. Harris, Jr.
Harris, Poe, Cheshire & Leager
Attorneys at Law
Durham Life Building
Box 2454, Raleigh, North Carolina 27602

No Protestants

WILLIAMS, COMMISSIONER: By application filed with the Commission on June 19, 1969, Wilson Merchant Delivery Service, Inc., 501 East Barnes Street, Wilson, North Carolina, seeks contract carrier permit to transport the goods, wares, advertising, and promotional materials of the Reuben H. Donnelley Corporation from the Raleigh-Durham Airport in Wake County to Elm City, North Carolina.

Notice of the Application, along with a description of the authority sought, together with the time and place of hearing was published in the July 1, 1969 Issue of the Commission's Calendar of Hearings.

No protests were filed and no one appeared at the hearing in opposition thereto.

Applicant offered the testimony of two witnesses, to wit: Edward A. Fulford and Carlos C. McNab.

Edward A. Fulford testified that he is the President of Wilson Merchant Delivery Service, Inc.; that the principal business of Wilson Merchant Delivery Service, Inc. is the hauling of commodities for drug firms, automobile parts and beauty supplies under Permit No. P-133 granted by the North Carolina Utilities Commission; that under its contract with The Reuben H. Donnelley Corporation of Elm City, North Carolina, Wilson Merchant Delivery Service, Inc. would pick up the air freight of The Reuben H. Donnelley Corporation at the Raleigh-Durham Airport and transport same to its facility in Elm City, North Carolina; that the present equipment owned by Wilson Merchant Delivery Service, Inc. will be used to provide service to The Reuben H. Donnelley Corporation and trial run has been made on this service which is satisfactory to both parties involved.

Carlos C. McNab testified that he is the Resident Manager of The Reuben H. Donnelley Corporation, which is engaged primarily in the direct mail advertising business in Elm City, North Carolina; that in that business it frequently has air freight delivered to Raleigh-Durham Airport to be delivered to Elm City; that The Reuben H. Donnelley Corporation is now engaged in a process of expanding its business in Elm City at a rapid pace; that at the present time shipments are either handled by a common carrier out of Raleigh or picked up in a vehicle with personnel of The Reuben H. Donnelley Corporation in Elm City; that neither of these methods have proven satisfactory to its operation as it is inconvenient for The Reuben H. Donnelley Corporation to supply personnel and equipment and consignment to a common carrier is too slow; that it is important that The Reuben H. Donnelley Corporation have as fast delivery of its materials as possible.

From the evidence, presented, a portion of which is briefly set out above, and the exhibit presented at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That the applicant, Wilson Merchant Delivery Service, Inc., is a North Carolina corporation and presently holds Contract Carrier Permit No. P-133, under the authority of which the applicant is presently operating as a contract carrier.

2. That the proposed operations conform with the definition of a contract carrier as contained in the Public Utilities Act and will not unreasonably impair the services of common carriers operating under certificates or common carriers by rail.

3. The proposed services will not unreasonably impair the use of the highways by the public.

4. That the applicant owns the equipment necessary for the operations as specified.

5. That the applicant is fit, willing and able to properly perform the services proposed as a contract carrier and such operations are consistent with the public interest and the transportation policy as required by law.

6. That applicant has entered into a written contract with The Reuben H. Donnelley Corporation, dated June 16, 1969, subject to approval of this Commission, for the performaance of the services described in Exhibit A attached hereto, and said contract has been duly filed with the Commission and offered into evidence as applicant's Exhibit No. 1.

Based upon the record, the evidence presented in this case and the foregoing Findings of Fact, it is the conclusion of the Commission that applicant has borne the burden of proof required by statute and that the authority sought should be granted.

IT IS, THEREFORE, ORDERED That contract carrier permit No. P-133 granted Wilson Merchant Delivery Service, Inc., 501 East Barnes Street, Wilson, North Carolina, be amended to authorize Permitee to engage in the transportation of the goods, ware, advertising and promotional materials of The Reuben H. Donnelley Corporation, as particularly described in Exhibit A hereto attached and made a part hereof.

IT IS FURTHER ORDERED That the operations of the authority herein granted shall commence within 30 days from the date of this Order, and applicant shall comply with all rules and regulations of the Commission with respect to filing of rates, insurance coverage and otherwise.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. T-1096
SUB 5

Wilson Merchant Delivery Service, Inc.
501 East Barnes Street
Wilson, North Carolina

EXHIBIT A

Contract Carrier Authority

Transportation of the goods, wares, advertising and promotional materials of The Reuben H. Donnelley Corporation from the Raleigh-Durham Airport in Wake County, N. C. to Elm City, N. C. under individual written contract with The Reuben H. Donnelley Corporation

DOCKET NO. T-825, SUB 104
DOCKET NO. T-825, SUB 119

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed Revised Rates and Charges on Unmanufactured Tobacco, Leaf or Scrap
and
Suspension and Investigation of Proposed Detention Rules and Charges and Revised Rates on Unmanufactured Tobacco and Related Commodities) ORDER

HEARD IN: Commission Hearing Room, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on February 6, 1969

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

APPEARANCES:

For the Respondent:

J. Ruffin Bailey, Ralph McDonald and Clarence H. Noah
Bailey, Dixon and Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina

For the Intervenors:

W. T. Joyner and Walton K. Joyner
Joyner, Moore & Howison
Attorneys at Law
P. O. Box 109, Raleigh, North Carolina
For: Flue-Cured Tobacco Cooperative Stabilization Corporation & Tobacco Growers Services, Inc.

F. Kent Burns
Boyce, Lake & Burns

Attorneys at Law
P. O. Box 1406, Raleigh, North Carolina
For: Leaf Tobacco Exporters Association &
Tobacco Association of the United States

Robert D. Rickert
Associate Counsel
R. J. Reynolds Tobacco Company
1910 Reynolds Building
Winston-Salem, North Carolina
For: R. J. Reynolds Tobacco Company

For the Commission Staff:

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

For the Using and Consuming Public:

George A. Goodwyn
Assistant Attorney General
P. O. Box 629, Raleigh, North Carolina

BY THE COMMISSION: This proceeding began on June 12, 1967, by the filing of North Carolina Motor Carriers Association, as Agent, on behalf of various North Carolina intrastate trucking companies, of a tariff of revised rates and charges on the transportation and handling of various tobacco products. These tariff schedules were identified as Motor Freight Tariff No. 8-1, N. C. U. C. No. 81, scheduled to become effective on July 12, 1967, and Supplement No. 1 thereto was scheduled to become effective on July 24, 1967. These schedules were published by NCMCA for account of certain of its carrier members who are authorized by the Commission to engage in the transportation of non-manufactured tobacco, leaf or scrap, in common carriage by motor vehicle between points and places within the State in intrastate commerce. The proposed tariff schedules, proposed to revise rates, rules, regulations, commodity descriptions and practices in connection therewith, for application on shipments of unmanufactured tobacco, leaf or scrap, moving in truck loads and less than truck load amounts in North Carolina intrastate commerce.

The rates involved in the tariff applied to unmanufactured tobacco, which consist of green tobacco and redried tobacco. The rates on green tobacco have been in effect since 1952 and were based on a uniform mileage scale between all points in North Carolina. There are point to point rates which represent varying differences from a uniform scale depending upon the point of origin involved in a particular shipment. No change was made in the rates applicable to redried tobacco and except for one variation, the old rates were brought forward. This variation fixed a minimum rate of 20 cents per 100 pounds.

The main purpose of the new tariff schedule is to increase revenue, with a secondary objective to begin a program to bring existing rates to a uniform mileage scale of rates. Where the old rates were below the uniform scale, the new rates increased them by a flat 10% but they were not to exceed this new uniform scale. Where the old rates were in excess of the uniform scale, they were to remain in effect and no reduction in the existing rate was given. The new rates will allow the carrier to charge 6 cents per 100 pounds for green tobacco in bundles or sheets above the charge for green tobacco packed in hogsheads. The minimum charge for handling a single less-than-truck-load shipment was increased from $2.50 to $4.00.

By Order of July 11, 1967, as amended on September 28, 1967, the Commission suspended the increased rates and instituted an investigation to determine the justness, reasonableness and lawfulness thereof, and assigned the matter for hearing on September 26, 1967. The carriers participating in the suspended schedule were named as respondents and pursuant to G.S. 62-75 and G.S. 62-34, the burden of proving the justness and lawfulness of the proposed provision was placed upon them. The hearing was continued to January 3, 1968, and suspension of the tariff was extended to June 6, 1968. Protests were filed by the Tobacco Association of the United States, the Leaf Tobacco Exporters Association, Flue-Cured Tobacco Cooperative Stabilization Corporation and Tobacco Growers Services, Inc. The Attorney General of North Carolina intervened on behalf of the using and consuming public.

This matter was heard by the Commission on January 3, 1968, in the Commission's Docket T-825, Sub 104. As a result of the hearing the Commission issued an Order on March 19, 1968, approving the proposed rates except in two particulars. The Commission Order provided that the minimum charge for a single shipment should be $3.50 rather than the proposed $4.00 and where the distance shipped would not exceed 20 miles, the minimum rate was reduced from 20 cents per 100 pounds to 18 cents per 100 pounds. The Order was appealed on April 29, 1968, by the Tobacco Association of the United States, the Leaf Tobacco Exporters Association and the Attorney General of North Carolina.

On October 23, 1968, the Court of Appeals held that the Commission findings on separation of the carriers interstate and intrastate business required further consideration, and remanded the case to the Utilities Commission for the entry of an order with further findings and conclusions on this issue based on the evidence in the record or for the taking of such additional evidence as the Commission may find necessary. The Court of Appeals stated that even though there may have been evidence presented in the record from which the Commission could have made findings of the carriers intrastate experience in the handling of shipments of green tobacco, the order did not make such findings.

On June 14, 1968, the respondents in Docket T-825, Sub 104, filed additional tobacco tariff provisions in T-825, Sub 119, including a detention rule, weekend layover charge and elimination of flag outs or check outs and new rates to the ports of Wilmington and Morehead City. The Commission suspended this filing and set the matter for investigation concerning the justness and reasonableness of the published tariff schedule. The matter was assigned for hearing on October 2, 1968, but upon motion of the parties, was continued and consolidated for hearing with T-825, Sub 104, on February 6, 1969.

These consolidated cases were heard by the Commission on February 6, 1969. The respondents conceded that the best procedure in complying with the Court of Appeals decision would be for them to introduce further evidence as to the operating ratios on green leaf tobacco hauled intrastate in North Carolina. It was further agreed by the parties that the witnesses would testify at the same time as to the matters involved in Docket T-825, Sub 119.

The respondents called 3 witnesses representing 3 companies who participated in the tariff. These witnesses testified as to the North Carolina green leaf intrastate operating ratio for their individual companies. The respondents maintain that these 3 carriers (Burton Lines, Inc., Epes Transport and Forbes Transfer Company, Inc.) are representative of the carriers moving green leaf tobacco in North Carolina intrastate commerce. The intrastate ratios given were 116.1, 111 and 117.82, respectively. Each of the witnesses testified that the operating ratio was found by determining what percentage of system miles the North Carolina intrastate green leaf miles represented and taking that percentage of system expenses. This result was then divided by the intrastate revenues from North Carolina intrastate green leaf movements. These witnesses, as well as L. E. Forrest, Traffic Manager of North Carolina Motor Carriers Association, testified in explanation of the proposals under publication in T-825, Sub 119. These witnesses all testified that the purpose of the detention rule was intended to be a penalty to the shippers and hopefully would encourage them to load and reload equipment more quickly. All of the respondent witnesses testified that the proposed detention rule would not be a revenue producing rule and would only be a method of reducing the expenses. Mr. C. F. Hardy, Assistant Traffic Manager of American Tobacco Company, appeared and made a statement in support of the rates in T-825, Sub 104 and elimination of varying rates by specific carriers for certain points in T-825, Sub 119.

Based upon all the evidence in this matter and upon the decision of North Carolina Court of Appeals remanding the original order to the Commission for the entry of a proper order with additional findings and conclusions and based on the evidence in the record or for the taking of such

additional evidence as the Commission may find necessary, we make the following

FINDINGS OF FACT

(1) That the operating ratios presented in the hearing on February 6, 1969, are based on separation of intrastate and interstate revenues and expenses and separation of intrastate green leaf tobacco revenues and expenses from those on other traffic.

(2) That the proposed adjustment is in the nature of a general increase in rates and charges for revenue purposes although in some instances it is proposed to continue present rates.

(3) That the respondents' rates and charges in effect prior to the rates and charges here in issue on intrastate green leaf tobacco movements are not sufficient to permit them to continue offering adequate and efficient transportation service to the public under economic and efficient management. The entire record of this case shows that the carriers transporting the preponderance of non-manufactured tobacco movement have unfavorable operating ratios.

(4) That the common carriers participating in the tariff schedule under suspension in this proceeding are subject to regulation by this Commission, and are in need of additional revenues and except as hereinafter noted, should be allowed to make the proposed increase in their rates and charges effective.

(5) That respondents' proposal to increase the minimum charge for a single shipment from $2.50 to $4.00 is not just and reasonable. A minimum charge of $3.50 for single shipment is just, reasonable and fair.

(6) That the proposal of the respondents to observe a minimum rate of 20 cents per 100 pounds in revising the rates is not just and reasonable for a distance under 20 miles. A minimum rate of 18 cents is fair, just and reasonable for such distance.

(7) That during the tobacco season, equipment is frequently unreasonably detained by the shippers for loading and unloading, and the detention rule and weekend layover rule as proposed by the respondents in this case have, in the past, resulted in substantial reduction of detention of the carriers' equipment.

(8) That application of the detention rule and weekend layover rule will result in earlier release of equipment by shippers and, therefore, offer more adequate and sufficient service to the public. The proposed detention rule and weekend layover rule will not compensate carriers for the

use of equipment during the period of detention but will act as a deterent to detention.

(9) That the rates, rules and charges allowed by the Commission to be made effective in its Order of March 19, 1968, in T-825, Sub 104 and those in issue in T-825, Sub 119 are found to be just and reasonable and should be approved.

CONCLUSIONS

This case was remanded by the Court of Appeals for the purpose of entry of a new order with findings based on evidence already in the record or for the taking of such additional evidence as the Commission may find necessary. The Court found that the previous hearing did not reflect a separation of intrastate and interstate revenues and expenses as contemplated by G.S. 62-146(h). The Court of Appeals stated that there may have been evidence presented in the records from which the Commission could have made a finding of intrastate experience; however, the Commission failed to make such a finding.

The Commission in this Order finds as a fact that considering all the evidence by the respondents concerning the operating ratios of respondents in the transportation of green leaf tobacco in North Carolina intrastate commerce, that material and substantial evidence has been offered to support the tariff schedules involved in these proceedings.

G.S. 62-146(h) requires this Commission to give the 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 sufficient transportation service by such carriers at the lowest cost consistent with the furnishing of such said service and to the need of revenues sufficient to enable such carriers under honest 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 rates 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.

The Commission finds that the evidence in this record concerning the operating ratios of the carriers does separate interstate and intrastate revenues and expenses as contemplated in G.S. 62-146(h).

The evidence in this matter indicates that the carriers' intrastate green leaf tobacco operating ratios exceed 110% in most cases. A rate must not only be fair, just and reasonable to the consumer but fair, just and reasonable to the carrier. The carriers' respondents herein engaged in

the transportation of tobacco perform a significant service to an important segment of the public shipping and receiving tobacco in North Carolina intrastate commerce and must have rates that provide sufficient revenues to permit them to continue service to the public.

The detention rule and weekend layover rule proposed in Sub 119 have been shown to be just and reasonable and therefore respondent sustained the burden of proof placed on it by G.S. 62-134(c). Numerous witnesses have testified as to the need for such rules to free equipment during the high movement seasons. Experience on the part of the carriers with such a rule in interstate commerce has shown that its application will result in a substantial reduction of detention. Often shippers will pull interstate shipments, which are subject to detention and layover rules out of line for loading and unloading in front of North Carolina intrastate shipments which are not now subject to such rules.

These rules are not designed to increase revenues of the carriers but only to obtain release of vehicles for use. In the absence of a detention rule, the shippers and receivers who release equipment promptly are handicapped during the shipping season by reason of those who detain equipment - preventing carriers the use of such equipment for all shippers and receivers alike. During the season there is a shortage of equipment which can be alleviated if equipment is released promptly.

The flag outs which are presently in effect result in some carriers having a lower level of rates to certain points than those approved under T-825, Sub 104. G.S. 62-140(a) provides that no public utility should, as to rates of services, make or grant any unreasonably preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage. These present rates or flag outs allow some shippers to receive preferred treatment and others to be discriminated against. One of the major purposes of the tariff in T-825, Sub 104 is to develop a uniform system of rates. It is, therefore, in the best interest of the public to approve the cancellation of these flag outs which T-825, Sub 119 provides.

In consideration of the record in this proceeding and the foregoing Findings of Fact and taking into consideration the Court of Appeals decision, we conclude that the proposed revision in rates and charges are in the best interest of the public and should be allowed to become effective except as set forth in Findings of Fact (5) and (6).

IT IS, THEREFORE, ORDERED:

(1) That the Orders of Suspension in Docket T-825, Sub 119, be, and the same are hereby vacated and set aside for the purpose of allowing the suspended matter to become effective on April 15, 1969, as scheduled.

(2) That upon the effectiveness of the rates, rules, regulations and charges now under suspension in Docket T-825, Sub 119, this proceeding be discontinued and same is hereby considered as discontinued.

(3) That all parties to these proceedings be furnished with a copy of this Order by U. S. First Class Mail and that no further publication be made insofar as rates, rules and charges involved in Docket T-825, Sub 104, is concerned since the rates approved by the Commission in its Order of March 19, 1968, in that proceeding went into effect on April 7, 1968.

ISSUED BY ORDER OF THE COMMISSION.

This 14th day of April, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 104
DOCKET NO. T-825, SUB 119

BIGGS, COMMISSIONER, CONCURRING: Although I consider the showing made by the respondents to be somewhat marginal, I concur with the majority of the Commission in allowing the proposed increased rates on green tobacco and redried tobacco and the detention charges applicable to equipment used in transporting such commodities to become effective. However, I would limit the authority to apply such rates to one season's operations with approval for subsequent seasons to be contingent upon a showing by the respondents that their experience during the coming season fully justifies the continuance of such rates and charges. I favor such a limitation for the following reasons:

1. As set forth in the premises in the majority order, Docket No. T-825, Sub 104, is before the Commission on remand from the North Carolina Court of Appeals for the entry of an order based on findings as to the operating ratios of the respondent motor carriers derived from the intrastate transportation of green and redried tobacco. At hearings held by the Commission subsequent to the entry of the Court's judgement, evidence was presented of the intrastate operating ratios of three carriers, which ratios were 116.1, 111 and 117.82, respectively. No evidence was presented as to the experience of the remaining 50 carriers which transport green and redried tobacco in intrastate commerce in North Carolina. The operating ratios of the three carriers presented were based upon reconstructed records and were given without any supporting data. In view of the fact that the necessity for further proceedings was not known until the recent tobacco hauling season was well under way, I am willing to accept the calculations made by said three carriers, notwithstanding the lack of detailed backup information; however, because of what I consider to

be the weakness of such calculations and the incompleteness of the underlying data, I consider it essential that the respondents be required to keep detailed records of their intrastate tobacco hauling operations for the ensuing season in order that the accuracy of these calculations may be verified.

2. I am willing to agree that the operating ratios of the three carriers presented in the subsequent proceedings are representative of the other carriers, but only for the purpose of approving increased rates for the ensuing season. I concede this with some reluctance, only because such increased rates seem so urgently needed. Said three carriers are closely held, family businesses, the expenses and operating policies of which may very well not be representative of other carriers. The only way that the Commission, or the carriers for that matter, can be sure that such operating ratios are representative is for all the carriers to keep detailed records of the revenues and expenses derived from the intrastate transportation of the tobacco in question and to file this information with the Commission at the end of the next operating season. Such information cannot be obtained from the annual reports filed by said carriers.

3. The assessment of penalties for undue detainment of equipment will undoubtedly produce some net economic gain to the respondent carriers. The extent to which the carriers are able to better utilize their equipment should be determined by requiring them to keep careful records of equipment utilization during the next tobacco hauling season. It may well be that such information would reveal a need for a more stringent detention rule and charges, especially since, as the carriers have characterized it, the detention rule in question is too liberal.

4. A considerable part of the original showing made by respondents in support of their request for increased line-haul rates related to the unusual detainment of equipment, and the order approving such increases was based on such showing. Subsequently, the detention penalty tariff was filed which seeks further relief from the unusual detainment of equipment. If the unusual detainment of equipment factor is removed from the showing made for increased rates, the rate case itself is substantially weakened. I have concluded, however, that there remains enough evidence in that showing to justify an approval of the rate increases, along with an approval of the detention charge, at least for one year's operation. I would require, however, that the carriers be directed to keep detailed records of their operating experience with respect to the intrastate transportation of tobacco in order that the extent and need for rate increases can be fully verified. This is a fair requirement and one which I believe the carriers would not resist.

My concurrence in the approval given by the majority order is limited to transportation of green and redried tobacco for the ensuing season and is conditioned upon the carriers' filing with the Commission at the end of said season detailed information of their operating ratios for the intrastate transportation of said commodities and detailed information as to the utilization of the equipment dedicated to such transportation during said season.

M. Alexander Biggs, Jr., Commissioner

DOCKET NO. T-825, SUB 104
DOCKET NO. T-825, SUB 119

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Suspension and Investigation of Proposed Revised Rates and Charges on Unmanufactured Tobacco, Leaf or Scrap and Suspension and Investigation of Proposed Detention Rules and Charges and Revised Rates on Unmanufactured Tobacco and Related Commodities	ORDER CORRECTING COMMISSION'S ORDER OF APRIL 14, 1969

BY THE COMMISSION: It appearing to the Commission that in its Order in this matter filed on April 14, 1969, that on page 2, last paragraph, second sentence reads as follows:

> "The rates on green leaf tobacco have been in effect since 1952 and were based on a uniform mileage scale between all points in North Carolina."

This should be corrected to read as follows:

> "The rates on unmanufactured tobacco have been in effect since 1952 and are not based on distances and do not reflect any consistent level."

It further appearing to the Commission that in its Order on page 3, second paragraph, second sentence reads as follows:

> "Where the old rates were below the uniform scale, the new rates increased them by a flat 10% but they were not to exceed this new uniform scale."

This should be changed to read as follows:

> "Where the old rates were below the scale set forth in Appendix A of the original Order in Docket T-825, Sub 104, the rates were increased 10% subject to observing said scale for the distances as maximum."

IT IS, THEREFORE, ORDERED that the second sentence, last paragraph on page 2 of the Order is hereby corrected to read as follows:

"The rates on unmanufactured tobacco have been in effect since 1952 and are not based on distances and do not reflect any consistent level."

IT IS FURTHER ORDERED that the second sentence, second paragraph on page 3 of the Order is hereby corrected to read as follows:

"Where the old rates were below the scale set forth in Appendix A of the original Order in Docket T-825, Sub 104, the rates were increased 10% subject to observing said scale for the distances as maximum."

ISSUED BY ORDER OF THE COMMISSION.

This 28th day of April, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 120

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed)
Increase in Rates on Commodities in Bulk,) ORDER
Scheduled Effective October 10, 1968)

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on December 20, 1968

BEFORE: Chairman Harry T. Westcott, presiding, Commissioners M. Alexander Biggs, Jr., and Clawson L. Williams, Jr.

APPEARANCES:

For the Respondents:

J. Ruffin Bailey and Clarence H. Noah
Bailey, Dixon and Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602

For the Commission's Staff:

Edward B. Hipp
Commission Attorney
Raleigh, North Carolina

No Protestants

WESTCOTT, CHAIRMAN: This investigation was instituted by the Commission following the filing, on statutory notice, by North Carolina Motor Carriers Association, Inc., Agent, of Supplement No. 14 to its Motor Freight Tariff 21-B, N.C.U.C. No. 83, which proposed, with certain exceptions, an increase of four (4) percent in the rates applicable on commodities, both liquid and dry, transported in bulk, in tanks, hoppers and other specialized bulk transportation equipment, effective October 10, 1968.

It being of the opinion that the interest of the public was involved, the Commission by Order of October 8, 1968, suspended the proposed increased rates to and including May 8, 1969, instituted an investigation into and concerning the justness, reasonableness, and lawfulness thereof, and assigned the matter for hearing on March 13, 1969. The order made carriers proposing to participate in the suspended schedule respondents and placed upon them under G.S. 62-75 and G.S. 62-134, the burden of proving that the proposed increase in rates, and practices in connection therewith, is just, reasonable and lawful.

By Order of November 26, 1968, in response to petition filed by counsel for and on behalf of respondents, the hearing assigned for March 13, 1969, was canceled and the matter was reassigned for hearing on December 20, 1968.

Respondents were present at the hearing and represented by counsel and witnesses. No protests to the proposed increase were filed and no one appeared at the hearing in opposition thereto.

In accordance with an agreement and stipulation by counsel for respondents and the Commission Attorney, the staff of the Commission proceeded first with the introduction of evidence.

The staff first presented an exhibit which makes a chronological showing of the rates that have been applicable for the transportation of representative bulk commodities as involved in this proceeding over the past several years. The exhibit, in addition to showing the past, present, and proposed (suspended) rates, also shows the percent of increase, proposed rates over past or present rates, and the carriers' minimum earnings or revenue per truckload in dollars and per loaded truck mile in cents.

The staff exhibit shows that the rates on nitrogen solutions and nitrogen fertilizer solutions were established under an Order of this Commission in Docket No. T-825, Sub 71, which issued February 24, 1964. The rates became effective March 4, 1964, and have not been increased or changed in any way since they were originally established after having been found by this Commission to be just and reasonable.

The exhibit also shows that the rates now applicable on phosphate fertilizer solutions have not been increased or changed since they were originally made effective on January 5, 1967.

The staff witness testified that the rates applicable on shipments of petroleum products, liquid asphalt, and glyceroids, in bulk, in tank vehicles, are not in issue in this proceeding.

The testimony of the witness tends to show that, with the exceptions noted, respondent carriers here propose an increase of four (4) percent in their rates and charges.

The staff also introduced an exhibit showing, with certain exceptions, the North Carolina operating revenues, expenses and operating ratios of respondent carriers for the years 1966 and 1967. The exhibit tends to show that eleven (11) of the twenty (20) respondent carriers had operating ratios in excess of 95 percent for the year 1967.

Respondents presented three witnesses who offered evidence and testimony.

The first witness, Mr. Joe C. Day, Assistant Traffic Manager, Ryder Tank Division, Chemical Leamon Tank Lines, offered an exhibit showing the operating statistics and the allocation of income and expenses to the interstate and intrastate operations of the North Carolina terminals of his company's Ryder Division, for the nine-month period ended September 30, 1968.

The witness testified that the operating statistics shown in the first section of the exhibit are actual figures taken from company records and cover the entire operation of Chemical Leamon's North Carolina terminals. The exhibit shows that 9.24 percent of the total miles operated was in performance of its intrastate service in North Carolina, that 19.43 percent of its shipments were intrastate and that 10.71 percent of its revenue was received for the transportation of intrastate commerce. The carrier used the percentages named, in the manner set forth in the exhibit, in the allocation of expenses to the performance of its intrastate transportation service within North Carolina.

The witness offered additional exhibits and testimony tending to show that based on actual revenue received and the allocation of expenses to interstate or intrastate service on the basis previously outlined, its North Carolina intrastate operating ratio for the nine months ended September 30, 1968, was 103.4 percent, while for the total operations (interstate and intrastate) of its North Carolina terminals the operating ratio was 95 percent.

Mr. Day testified that the ratio of empty return to loaded movement of tank vehicle equipment used by his company in

the transportation of bulk commodities in North Carolina intrastate commerce is 100 percent.

Respondents next presented as a witness, Mr. L. J. Steele, Coordinator of Traffic and Sales for M & M Tank Lines, Winston-Salem, North Carolina.

An exhibit was offered which tends to show that his company's systemwide operating ratios were 92.7, 93.9 and 95.2 percent for the years 1966 and 1967 and the first nine months of 1968, respectively. The witness testified that approximately 88 percent of M & M's total business consisted of traffic moving in North Carolina intrastate commerce and that a substantial amount of the traffic consisted of petroleum products, a commodity not in issue in this proceeding.

The exhibit also shows and the witness testified that M & M Tank Lines' gross revenue per running mile was 43.2, 46.1 and 49.5 cents, and its operating costs per running (loaded and empty) mile were 42.5, 43.3 and 47.1 cents for the periods previously named.

Mr. Steele also testified that the costs of tires, power units, trailers, batteries and the salaries of drivers and mechanics had increased substantially since 1966. An additional exhibit was offered which tends to show that the earnings of his company per running mile are greater on exempt commodities (dry fertilizers and solite) and on interstate shipments of sodium chloride and nitrogen solutions than received on like bulk commodities involved in this proceeding when moving in North Carolina intrastate commerce.

The witness also mentioned an increase made in the rates on petroleum products in August, 1968, and offered testimony tending to indicate that revenue received from petroleum products was, to some extent, subsidizing his company's transportation of bulk commodities involved in this proceeding.

Mr. W. L. Warren, General Manager, Coastal Transport, Goldsboro, North Carolina, offered testimony on behalf of respondents in general, and Coastal Transport in particular. The witness testified that his company's entire operation is in North Carolina intrastate commerce. The preponderance of service performed by this carrier is in the transportation of petroleum, nitrogen solutions, liquefied petroleum gas, and as exempt commodities, corn and dry fertilizer. The testimony tends to show that fifty (50) percent of the carrier's service is in the transportation of petroleum products, forty (40) percent nitrogen fertilizer solutions and ten (10) percent dry fertilizer, corn, and other exempt commodities. The carrier's operating ratio for the first nine months of 1968 is 96.4 percent. An exhibit was presented which tends to show that the cost of performing a

transportation service by motor vehicle has increased in all categories since 1966.

R. H. Greer, Vice President, Maybelle Transport Company, Charles Smith, Vice President, Tidewater Transit Company, R.D. Shaw, Vice President, Central Transport, Inc., Wesley McAfee, General Manager, East Coast Transport Company, Lee Shaffer, Vice President, Kenan Transport Company, and Clark Reymer, President of Public Transport were tendered by counsel as being cumulative witnesses for respondents whose testimony if given would be in corroboration of that placed in the record by their principal witnesses.

Based on the evidence adduced in this proceeding, we make the following

FINDINGS OF FACT

(1) Respondent carriers participating in the tariff schedule involved in this proceeding, containing rates and charges on commodities in bulk, in both dry and liquid form, when transported in tanks, hoppers and other specialized vehicular equipment, are subject to the jurisdiction of, and regulation by, this Commission, and said carriers are properly before the Commission in this proceeding.

(2) The rates applicable on glyceroids, petroleum products and liquid asphalt, in bulk, in tank vehicles, are not in issue in this proceeding.

(3) The cost of performing a service involving the transportation of commodities in bulk by motor vehicle has increased since 1966.

(4) Respondents' present rates and charges are not sufficient to permit them to continue to perform an adequate, economical and efficient service to all shippers and receivers.

(5) Respondents are in need of additional revenues and should be allowed to make effective the proposed increase of four (4) percent in their rates and charges to meet the increased cost of operation and enable them to preserve and continue all motor carrier services now afforded to the using and consuming public of the State engaged in the production of various commodities and the distribution of same in bulk.

(6) The rates proposed in this proceeding are found to be just and reasonable.

CONCLUSIONS

In consideration of the record in this proceeding and the foregoing Findings of Fact, we conclude that the proposed increase in rates and charges, and practices in connection therewith, should be allowed to become effective.

IT IS THEREFORE ORDERED:

(1) That the Order of Suspension in this docket dated October 8, 1968, be, and the same is hereby, vacated and set aside for the purpose of allowing the suspended adjustment as set forth in the tariff schedule hereinbefore named and described to be made effective.

(2) That the publication authorized hereby may be made effective on one (1) day's notice to the Commission and the public.

(3) That upon publication authorized hereby having been made, this proceeding be discontinued, and same is hereby considered as discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of January, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 120

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed Increase in Rates on Commodities in Bulk, Scheduled Effective October 10, 1968) ORDER GRANTING PETITION

BY THE COMMISSION: It appearing, That after investigation and hearing the Commission in order herein of January 23, 1969, allowed certain increased rates and charges applicable on commodities, in bulk, to be made effective January 27, 1969.

It further appearing, That G.S. 62-79(b) provides, among other things, that it shall be necessary before changing rates fixed by an outstanding order of the Commission to obtain relief from said order where the rates published thereunder have been in effect less than one (1) year,

It further appearing, That by petition filed herein on August 21, 1969, by counsel, for and on behalf of the carriers participating in North Carolina Motor Carriers Association Bulk Commodity Tariff 21 series the carriers pray the Commission to grant relief from its order of January 23, 1969, in this docket in order that they may through an appropriate publication propose an increase in rates and charges published under authority of said order same having been in effect less than one year.

Upon consideration of the foregoing the Commission has concluded to grant the relief sought, any publication made under authority of such action to be subject to investigation upon complaint or upon the Commission's own motion.

IT IS ACCORDINGLY ORDERED:

(1) That petition for certain relief as hereinbefore enumerated and described, from the provisions of the Order in this docket dated January 23, 1969, filed by counsel for and on behalf of the motor common carriers of commodities in bulk, be, and the same is hereby granted.

(2) That any publication made under authority of the relief herein granted, be, and the same shall be subject to investigation upon complaint or by the Commission on its own motion.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 122

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed Increase in) ORDER
Rates and Charges Applicable on Telephone Equipment)

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on February 5, 1969, at 2 P.M.

BEFORE: Chairman Harry T. Westcott, Presiding, Commissioners Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant: No Attorney

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney

WILLIAMS, COMMISSIONER: The North Carolina Motor Carriers Association, Inc., agent, filed with the Commission for and on behalf of its member carriers Supplement No. 10 to North Carolina Motor Carriers Association, Inc., Agent, Tariff 17-

B, N.C.U.C. No. 61; the provisions of Items 60-B, and 100-C and Index No. 10-D, only, effective December 20, 1968, wherein the Respondents seek an increase in the rates and charges applicable on shipments of telephone equipment moving between points and places in North Carolina intrastate commerce.

The Commission being of the opinion that the interest of the public was involved, by Order dated December 16, 1968, suspended the application of the proposed rates, ordered an investigation into the justness and reasonableness of the same and set the matter for hearing at the time and place shown in the caption. Said Order deferred the effective date of said tariff to May 18, 1969, designated the carriers participating as Respondents and placed upon them the burden of proof of showing that the proposed increase was just, reasonable and otherwise lawful under the provisions of G.S. 62-75 and G.S. 62-134(c).

Respondents were not represented by counsel at the hearing. Mr. L. E. Forrest, Traffic Manager of the North Carolina Motor Carriers Association, offered testimony on behalf of the Respondents and Mr. John H. Everett, partner of Everett Motor Lines, one of the five Respondent carriers testified in behalf of his company and the remaining authorized carriers.

Mr. I. H. Hinton, Assistant Director of Traffic, testified on behalf of the Commission Staff.

From the testimony and exhibits admitted into evidence, the Commission makes the following

FINDINGS OF FACT

1. The Respondent motor carriers are duly certificated common carriers of telephone equipment by motor vehicles in North Carolina intrastate commerce.

2. By virtue of the Order of Investigation and Suspension in this docket, dated December 16, 1968, and under the provisions of G.S. 62-75 and G.S. 62-134(c) the burden of proof is upon Respondents to show that the proposed increase in rates is justified and reasonable and otherwise lawful.

3. The only evidence of operating ratios, offered by the Respondents through the Commission Staff, reflected their overall intrastate ratios relating to all commodities transported in North Carolina intrastate commerce for the years 1966 and 1967. There was no breakdown or showing of the operating ratios relating solely to intrastate transportation of telephone equipment.

4. That the intrastate operating ratios of the Respondents for the years 1966 and 1967 appear to be reasonable and favorable and to show that Respondents are

earning a fair rate on their intrastate operations in North Carolina for the years referred to.

5. The Commission finds as a fact that Respondents have failed to bear the burden of proof and have failed to show to the Commission that the proposed rates are just and reasonable as required of them by law.

The Commission, therefore, reaches the following

CONCLUSIONS

The evidence of record is not convincing that the proposed rate increases are just and reasonable or needed by the Respondents to provide them with the revenues necessary for continuing to render the services for which they are certificated. The Statute [G.S. 62-146(g)] requires the Commission to fix the rates of motor carriers on the basis of the operating ratios of such carriers, being the ratio of their operating expenses to their operating revenues. As stated in the Findings of Fact, the only evidence of operating ratios was as to the overall intrastate operations of the Respondents for the latest year available, 1967. The evidence showed such operating ratios of the five Respondents to range from a low of 65.3% to a high of 96.2%. The Commission cannot find from such evidence that the present rates are unreasonable or that they prohibit the Respondents from earning sufficient revenues to continue to render the services for which they are certificated. On the basis of the record in this docket, the Commission feels it has no alternative but to deny the proposed rate increase.

IT IS, THEREFORE, ORDERED:

That the rate increases proposed by Supplement No. 10 to North Carolina Motor Carriers Association, Inc., Agent, Tariff 17-B, N.C.U.C. No. 61; the provisions of Items, 60-B and 100-C and Index No. 10-D, only, effective December 20, 1968, filed by the North Carolina Motor Carriers Association, Inc., are denied and their effectiveness disallowed.

IT IS FURTHER ORDERED:

That the Order of Suspension and Investigation, dated December 16, 1968, is vacated and the investigation thereunder discontinued and the matter dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of March, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 123

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed Revision in)
the Motor Common Carrier Rates and Charges) ORDER
Applicable on Cement, Lime and Related Commodities)

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on February 14, 1969.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten (presiding).

APPEARANCES:

For the Respondents:

J. Ruffin Bailey and Kenneth Wooten, Jr.
Bailey, Dixon and Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602

For the Commission's Staff:

Larry G. Ford
Associate Commission Attorney
Raleigh, North Carolina 27602

WOOTEN, COMMISSIONER: This investigation was instituted by the Commission following the filing, on statutory notice, by North Carolina Motor Carriers Association, Inc., Agent, of its Motor Freight Tariff No. 23-A, N.C.U.C. No. 85, which proposed the establishment of revised rates for application on shipments of cement, hydrated lime and mortar mix, dry, in bulk, or in bags, moving in motor common carriage between points and places in North Carolina intrastate commerce effective January 1, 1969.

Upon consideration of the publication this Commission concluded that the interest of the public was involved and accordingly issued its order of December 17, 1968, suspending and deferring the application of the proposed revised rates to and including May 1, 1969, instituting an investigation into and concerning the justness, reasonableness and lawfulness thereof, and assigning the matter for hearing on April 9, 1969. The order made carriers proposing to participate in the suspended schedule respondents and placed upon them under G.S. 62-75 and 62-134, the burden of proving that the suspended rates, representing both increases and reductions, and rules and regulations published in connection therewith, are just, reasonable and lawful.

By Order of January 14, 1969, issued in response to petition filed by counsel for and on behalf of respondents, the hearing assigned for April 9, 1969, was canceled and the matter was reassigned for hearing on February 14, 1969.

Respondents were present at the hearing and represented by counsel and witnesses. No formal protests to the proposed adjustments were filed but Ideal Cement Company and Louisville Cement Company were present without counsel.

RESPONDENTS' EVIDENCE

Respondents presented a witness that offered testimony with respect to the nature of the proposed adjustment. No change is proposed in the rates for distances in excess of 140 miles, but for the shorter distances increases are proposed that range from 1 to 6 cents per 376 pound barrel on portland cement and from 1 to 5 cents per 278 pound barrel on mortar cement. The carriers feel it is necessary to increase the rates for the shorter distances in order to produce adequate revenue for the service rendered, but are of the opinion that for distances exceeding 140 miles the present rates are compensatory.

The Director of the Cost Finding Section of Schwerman Trucking Company, Milwaukee, Wisconsin, testified in regard to the operating experience of his company in the transportation of cement from the plant of Ideal Cement Company at Castle Hayne, North Carolina, to points and places within the State. The traffic moves in bulk, in tank vehicles. A four weeks study was made of the traffic that actually moved from the Castle Hayne plant. The sampling used was for the second week of January, April, July and October, 1968. The witness feels that this is a representative period, since it has no material distortions such as holidays. An exhibit was offered which annualizes the four weeks study and tends to show that the present basis of rates produces annual revenues of $202,452.63 and the suspended adjustment $209,290.79, an increase of $6,838.16 in revenue and a percentage increase of 3.38 per cent.

The witness testified that the cost of performing its transportation service has increased in all categories since the last increase in the rates on cement became effective in 1967. The costs of supervision and office payroll has increased four (4) per cent, drivers and mechanics have received a wage increase of 15 cents per hour and the costs of tires, parts and supplies have also increased. The same is true with respect to payroll taxes and Workman's Compensation. An exhibit was offered in evidence showing a projection of operating revenues and expenses incident to the handling of intrastate shipments of cement for the calendar year 1969. The projection is based on taking the income statement covering the entire operation of Schwerman's Wilmington terminal for the year 1968, adjusting the figures to reflect the increase in revenue that the

suspended adjustment is expected to produce and the known increases in costs for the year 1969. Adjustments were then made to delete expense items not connected with the transportation of cement in North Carolina intrastate commerce. The separation of revenues and allocation of expenses as between intrastate cement and all other traffic was made by the application of ratios based on shipments handled, miles operated, revenues received and man-hours worked. The projected cement operating revenues and expenses for the calendar year 1969, under the proposed rate adjustment, reflect a net operating loss of $20,007 and an operating ratio of 109.6. The witness explained that his company had encountered maintenance problems in the operation of its Wilmington terminal that the management believes have now been cured. The witness believes that the proposed increase in rates, coupled with an increase in its volume of business and reductions in certain variable expenses, such as an non-recurring item of 11 engine replacements in tractors purchased for its cement operation from Castle Hayne, will enable it to bring the operation to the point where it will produce a modest profit.

Richard E. Shaw, Vice President of Central Transport, Inc., High Point, North Carolina, testified in regard to the operating experience of his company in the transportation of cement in bags, on flat-bed trailers, from the plant of Louisville Cement Company at Spencer, North Carolina, to points and places within the State. The carrier submitted an exhibit which purports to show the details of the Spencer operation for the months of October and November, 1968. The exhibit shows the carrier's calculated constant cost per day per tractor and trailer and the operating cost per mile. The exhibit also shows, for each working day in the two month period, the number of trips, one-way miles per trip, total number of miles operated, actual revenue per trip and the projected revenue per trip based on the suspended rates. The number of tractors used on each date is also shown and the estimated number of trailers, as well as the profit or loss each day on an actual basis and on a projected basis. A recapitulation of the figures shown in the exhibit tends to show, that for the two months period the carrier suffered an estimated loss of $618.68 with an operating ratio of 102.4 per cent under the present rate structure, while by subjecting the same movements to the proposed rates the carrier would enjoy a profit of $979.71 and an operating ratio of 96.4 per cent.

PROTESTANTS' EVIDENCE

A. S. Bonney, Traffic Manager, Ideal Cement Company, Denver, Colorado (Ideal), presented testimony and evidence tending to show the following:

(1) That Ideal owns and operates a cement mill at Castle Hayne, North Carolina, which is located approximately ten miles northeast of Wilmington, New Hanover County, North Carolina. It also ships cement from Fayetteville, Charlotte

and Greensboro and in 1968 also made shipments from Asheville.

(2) That in 1968, Ideal shipped 4,029 truckloads from its plant at Castle Hayne and 69 per cent of the traffic moved in intrastate commerce. The movement from its other North Carolina shipping points amounted to 3593 truckloads, 89 per cent of the movement being intrastate traffic.

(3) That during the year 1968 the total transportation charge paid by Ideal for the trucking of cement between points in North Carolina amounted to $576,843.56 and that it is vitally interested in the level of the rates applicable on its product within the State.

(4) That Ideal believes the present rates applicable on cement moving between points and places within the State in intrastate commerce are just, reasonable and that same adequately compensate the carriers for the service performed.

The testimony of Louis B. Hartlage, Traffic Manager, Louisville Cement Company, Louisville, is summarized as follows:

(1) Louisville has plants located at Speed and Logansport, Indiana, and ships cement from those plants via rail to its terminal at Spencer, North Carolina, for distribution by motor vehicle in common carriage to its customers in North Carolina. This company manufactures a masonry cement and the traffic moves from Spencer in bags, loaded on flat-bed trailers.

(2) That his company established its terminal at Spencer in 1965 and since that time has used the services of Central Transport, Inc., of High Point, exclusively, in making distribution of its product by truck to its patrons in North Carolina.

(3) The witness believes that the transportation of cement, in bags, on flat-bed trailers is not as costly an operation as the distribution of this commodity loaded in bulk, in tank trucks, and that the present intrastate rates from Spencer to points and places within the State are just and reasonable.

FINDINGS OF FACT

(1) That respondent carriers participating in the tariff schedules under suspension in this proceeding, containing rates and charges proposed for application on shipments of cement, lime, and related commodities, in bulk, and in bags, are subject to the jurisdiction of, and regulation by this Commission, and said carriers are properly before the Commission in this proceeding.

(2) That the traffic moves in bulk, in tank vehicles and also in bags, on flat-bed trailers, but the evidence adduced does not warrant the maintenance and application of a different level of rates on shipments of cement depending upon the type of equipment utilized in the performance of the transportation.

(3) There is a 100 per cent empty return movement of tanks and flat-bed equipment used in the transportation of cement in bulk and in bags.

(4) The cost of performing a service involving the transportation by motor vehicle of shipments of cement and related commodities in bulk, and in bags, has increased since 1967.

(5) Respondents' present rates for distances less than 141 miles are not sufficient to permit them to continue to perform an adequate, economical and efficient service to all shippers and receivers.

(6) Respondents are in need of additional revenues and should be allowed to make the proposed increases in their rates and charges effective, in order to meet their increased cost of operation and enable them to preserve and continue all motor carrier services now afforded the using and consuming public of the State engaged in the production of cement, lime, and related commodities and the distribution of same by motor vehicle.

(7) The rates under suspension in this proceeding are found to be just and reasonable.

CONCLUSIONS

In view of the record in this proceeding and the foregoing Findings of Fact, we conclude that the proposed increase in rates and charges, and the rules and regulations published in connection therewith, should be allowed to become effective.

IT IS ACCORDINGLY ORDERED:

(1) That the Order of Suspension in this docket dated December 17, 1968, be, and the same is hereby, vacated and set aside for the purpose of allowing the suspended adjustment as set forth in the tariff schedule hereinbefore named and described to be made effective.

(2) That the publication authorized hereby may be made on one (1) day's notice to the Commission and the public, but shall otherwise comply with the Rules and Regulations of this Commission governing the publication, posting and filing of tariff schedules.

(3) That upon publication authorized hereby having been made, this proceeding be discontinued, and the same is hereby, considered as discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of March, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 123

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed Revision in the Motor Common Carrier Rates and Charges Applicable on Cement, Lime and Related Commodities) ORDER GRANTING PETITION

BY THE COMMISSION: It appearing, That after investigation and hearing, the Commission in Order herein of March 17, 1969, allowed certain increased rates and charges to be made applicable on shipments of cement, hydrated lime and mortar mix, dry, in bulk, or in bags, moving in motor common carriage between points and places in North Carolina intrastate commerce effective March 23, 1969.

It further appearing, That G.S. 62-79(b) provides, among other things, that it shall be necessary before changing rates fixed by an outstanding order of the Commission, to obtain relief from said order where rates published thereunder have been in effect less than one year.

It further appearing, That by petition filed in this docket on October 2, 1969, by North Carolina Motor Carriers Association, Inc., Agent, for and on behalf of carriers participating in its Cement Tariff No. 23-A, relief is sought from the provisions of Order in this docket dated March 17, 1969, in order that the carriers of cement and related commodities may, through an appropriate publication, propose an increase in rates and charges published under authority of said order same having been in effect less than one year.

Upon consideration of the foregoing the Commission has concluded to grant the relief sought, any publication made under authority of said relief to be subject to investigation upon complaint or upon the Commission's own motion.

IT IS ACCORDINGLY ORDERED:

(1) That petition for certain relief as hereinbefore enumerated and described, from the provisions of the Order in this docket dated March 17, 1969, filed by North Carolina Motor Carriers Association, Inc., Agent, for and on behalf of motor common carriers of cement and related commodities, be, and the same is hereby, granted.

(2) That any publication made under authority of the relief herein granted, be, and the same shall be subject to investigation upon complaint or by the Commission on its own motion.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of October, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. T-825, SUB 124

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed Revised Rates, Rules and Regulations and Charges Applicable for the Transportation of Mobile Homes and House Trailers) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Bldg., Raleigh, North Carolina, June 12, 1969, at 10 a.m.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Respondents:

Earl W. Vaughn, Esq.
Vaughn & Harrington
109 West Washington Street
Eden, North Carolina
For: Morgan Drive-Away, Inc.

Charles B. Morris, Jr., Esq.
Jordan, Morris & Hoke
P. O. Box 1606, Raleigh, North Carolina
For: Transit Homes, Inc.
National Trailer Convoy, Inc.

For the Commission Staff:

Edward B. Hipp, Esq.
Commission Attorney
North Carolina Utilities Commission

Larry G. Ford, Esq.
Associate Commission Attorney
North Carolina Utilities Commission

WILLIAMS, COMMISSIONER: These proceedings arise out of the filing with the Commission by Morgan Drive-Away, Inc., National Trailer Convoy, Inc., and Transit Homes, Inc. of tariff schedules proposing a revision in the rates, rules and regulations applicable for the account of said carriers for the transportation of mobile homes and house trailers in truckaway service between points and places within the State in intrastate commerce, the filings being scheduled to become effective on January 1 and 2, 1969, and designated as follows:

Morgan Drive-Away, Inc., Local Freight Tariff No. 6, N.C.U.C. No. 6, scheduled effective January 1, 1969; in full,

National Trailer Convoy, Inc., Local Freight Tariff No. 6, N.C.U.C. No. 6, scheduled to become effective January 2, 1969; in full,

Transit Homes, Inc., Local Freight Tariff No. 6, N.C.U.C. No. 6, scheduled to become effective January 1, 1969; in full

The Commission being of the opinion that said tariff revisions affect the rights and interest of the public, issued an Order, dated December 18, 1968, suspending said tariff filings and instituting an investigation to determine the justness, reasonableness and lawfulness of said schedules and setting the matter for hearing on April 11, 1969.

By Order dated April 9, 1969, the hearing scheduled for April 11, 1969 was cancelled and the matter was rescheduled for hearing at the time and place shown in the caption.

By Order Dated April 21, 1969, the Commission declared the proceeding to constitute a general rate case under G.S. 62-137 and the period of suspension was extended to September 28, 1969.

From the testimony and exhibits entered into the record at the hearing by Respondents and the Commission Staff, the Commission makes the following

FINDINGS OF FACT

1. That the Respondents, the three major franchised carriers of mobile homes and house trailers in truckaway service, in intrastate commerce seek approval of certain new and revised rules and rates resulting in increases and reductions in charges for their services.

2. That since the last rate increases were granted to the Respondents they have experienced and continue to experience increases in their costs of operations with a resultant increase in operating ratios. That the 1968 operating ratios of Respondents in intrastate traffic were as follows:

National Trailer Convoy, Inc.	-	98.4%
Morgan Drive-Away, Inc.	-	99.8%
Transit Homes, Inc.	-	102.7%

3. That in all instances the rates and charges proposed are less than or equal to the present rates allowed on interstate commerce and the Respondents project 1968 intrastate operating ratios under the proposed tariffs based on 1968 intrastate traffic as follows:

National Trailer Convoy, Inc.	-	95%
Morgan Drive-Away, Inc.	-	96.8%
Transit Homes, Inc.	-	98.5%

4. That in order to preserve adequate and efficient mobile home transportation in the State it is essential that Respondents have revenues sufficient to support their costs of operation and to provide them with a fair and reasonable return on their endeavors.

5. That the proposed rates and charges and the proposed changes in the rules and practices for transporting and delivering mobile homes in truckaway service appear to the Commission, after due consideration of all the evidence to be just, reasonable and otherwise lawful.

Based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSION

Respondents have justified and shown to be reasonable the changes in their rates, rules and regulations. The present condition of the Respondents' operations and their operating ratios on intrastate traffic clearly indicate the need for additional revenues if the Respondents are to continue to provide service to the public without reduction in the quality of that service. The proposed changes are justified and reasonable and will not result in any excessive return to the Respondent carriers.

ACCORDINGLY, IT IS, THEREFORE, ORDERED That the Order of Suspension and Investigation entered in this docket, dated December 18, 1968, and the Further Order of Suspension, dated April 21, 1969, be and the same are hereby vacated and set aside and the proceeding discontinued.

IT IS FURTHER ORDERED That the suspended tariff schedules as hereinbefore enumerated and described, be, and the same are hereby, allowed to become effective on one (1) day's notice by the filing of appropriate tariff schedules in accordance with the Commission's rules governing the construction and filing of tariffs.

AND IT IS FURTHER ORDERED That Respondents observe a uniform effective date in making publication under the provisions of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 127

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed)
Increase in Motor Common Carrier Rates and) ORDER
Charges Applicable on Household Goods)

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on June 19, 1969

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt, Clawson L. Williams, Jr., M. Alexander Biggs, Jr., and Marvin R. Wooten

APPEARANCES:

For the Respondents:

Thomas R. Eller, Jr.
Cansler, Lockhart & Eller
Attorneys at Law
910 North Carolina National Bank Building
Charlotte, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney

Ruffin Building
Raleigh, North Carolina

Larry G. Ford
Associate Commission Attorney
Ruffin Building
Raleigh, North Carolina

No Protestants

WESTCOTT, CHAIRMAN: This proceeding began following the filing on statutory notice of the following tariff schedules for and on behalf of respondent motor common carriers of household goods and personal effects:

Supplement No. 5 to Motor Carriers Traffic Association, Inc., Agent, Tariff No. 5-B, N.C.U.C. No. 37 (Scheduled effective June 13, 1969),

Supplement No. 14 to North Carolina Motor Carriers Association Tariff No. 18-A, N.C.U.C. No. 63 (Scheduled effective June 2, 1969),

Supplement No. 23 to North Carolina Household Goods Movers and Warehousemen's Association Tariff No. 1-D, N.C.U.C. No. 5 (Scheduled effective June 2, 1969).

The tariff schedules propose to revise the present rates, rules and accessorial charges applicable for account of Respondents on North Carolina intrastate traffic to reflect the same, or substantially the same, level as applicable on like shipments of household goods and personal effects moving in interstate commerce.

By Motion filed May 15, 1969, counsel for respondent carriers moved that the Commission enter into an investigation of the proposed revised rates and charges if it deemed same to be necessary, but prayed that said tariff publications not be suspended but allowed to become effective as scheduled.

Upon consideration of the filings and the Motion of counsel for Respondents as aforesaid, the Commission concluded that the interest of the public was involved and that the proposed rates and charges should be suspended, an investigation instituted, and the matter assigned for hearing, but that Respondents (movants) should be afforded the opportunity to appear and argue orally before the Commission that the order of suspension to issue should be vacated and the involved tariff schedule allowed to become effective as soon as possible.

By order herein of May 23, 1969, the schedules hereinbefore enumerated and described were suspended to and including September 30, 1969, an investigation instituted, and the matter declared to constitute a general rate case under G.S. 62-137. The proposed revised rates and charges

having been suspended, the Commission treated the aforementioned Motion filed by counsel for Respondents as a Motion to Vacate the suspension and assigned same for oral argument on June 13, 1969. The order also assigned the investigation into and concerning the justness and reasonableness of the proposed revised rules and charges for hearing on July 1, 1969.

Following oral argument on June 13, 1969, on Respondents' Motion to Vacate the Order of Suspension, order of June 13, 1969, issued which denied said Motion, canceled the hearing assigned for July 1st and reassigned the matter for hearing on June 19, 1969.

Prior to the hearing, counsel for Respondents filed numerous affidavits for substantial common carriers of household goods in North Carolina intrastate commerce which tend to show that had the present rates for intrastate services been applicable for all carrier services rendered by such carriers in 1968, the carriers would have sustained substantial operating losses.

Numerous other motions, petitions and pleadings were filed prior to the hearing, and same were duly considered and action taken thereon. A resume of these filings is not considered necessary for a proper understanding of the issues here involved.

Hearing was held with parties and counsel present as captioned, and based upon the evidence adduced the Commission makes the following

FINDINGS OF FACT

(1) Respondents are actively engaged in the transportation of household goods and personal effects in North Carolina intrastate commerce and are properly before the Commission in this proceeding.

(2) The suspended line-haul rates and accessorial charges are substantially the same as are applicable on like shipments of household goods moving in interstate commerce.

(3) The present rates of Respondents were published effective January 20, 1966, having been found just and reasonable by this Commission in its order of January 17, 1966, in Docket No. T-825, Sub 83.

(4) Since the present rates became effective, Respondents' operating costs for labor, fuel, taxes, rents, equipment, supervision and maintenance have increased substantially. In addition, since January, 1966, the interest rate on monies required for the financing of new equipment has increased from 5 per cent to 7 and 7-1/2 per cent.

(5) Respondents' present rates and charges are not sufficient to permit them to continue to perform an adequate, economical and efficient service to all shippers and receivers.

(6) Respondents are in need of additional revenues and should be allowed to make effective the proposed increases in their rates and charges to meet the increased cost of operation and enable them to preserve and continue all motor carrier services now afforded to the using and consuming public.

(7) Counsel for Respondents stipulated at the hearing that in the event the suspended rates and charges were allowed to become effective the carriers would voluntarily subject the rates to the same released value rules and to all other rules and regulations published in their interstate tariffs for protection of the public in the case of loss or damage to property while in possession of the carrier.

(8) That in consideration of the record herein and the stipulation made by counsel for Respondents in (7) above, the rates and charges proposed in this proceeding are found to be just and reasonable.

Based on the evidence adduced of record and the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

G.S. 62-146(a) provides that: "It shall be the duty of every common carrier by motor vehicle to provide safe and adequate service, equipment, and facilities for transportation in intrastate commerce and to establish, observe and enforce just and reasonable regulations and practices relating thereto,..."

Subsection (e) of this section provides that if this Commission should be of the opinion that any individual or joint rate for transportation of property in intrastate commerce, or any classification, rule, regulation, or practice whatsoever of such carrier or carriers affecting such rate or the value of the service thereunder, "is or will be unjust or unreasonable or unjustly discriminatory or unduly preferential or unduly prejudicial, it shall determine and prescribe the lawful rate or the minimum or maximum, or the minimum and maximum rate thereafter to be observed,..."

Subsection (g) provides that: "In any proceeding to determine the justness or reasonableness of any rate of any common carrier by motor vehicle, there shall not be taken into consideration or allowed as evidence any elements of value of the property of such carrier, good will, earning power, or the certificate under which such carrier is operating, and such rates shall be fixed and approved,

subject to the provisions of subsection (h) hereof, on the basis of the operating ratios of such carriers, being the ratio of their operating expenses to their operating revenues, at a ratio to be determined by the Commission;..."

Respondents presented an exhibit showing the results of a study made of the operating experiences of twenty representative carriers engaged in the transportation of household goods and related activities. The purpose of the study was to obtain information that would enable a separation from the total revenues and expenses of the study carriers, the revenues received and the expenses incurred in the transportation of household goods in North Carolina intrastate commerce. The revenues in the exhibit are actual, having been taken from the records of the carriers, while North Carolina expenses were separated from the total by use of a mileage prorate.

The study carriers appear to be fairly representative of the over 200 carrier Respondents herein. They are based and conduct operations in the various geographical areas of the State, are both large and small, and include carriers that conduct extensive interstate and exempt operations and some whose principal source of revenue is derived from the transportation of household goods in intrastate commerce.

The calculated North Carolina intrastate household goods operating ratios of the 20 study carriers for the calendar year 1968 range from 84.1 to 193.1 per cent, 18 of the carriers had operating ratios exceeding 100 per cent and the average ratio is 130 per cent.

In UTILITIES COMMISSION v. STATE, 250 N.C. 410, the North Carolina Supreme Court stated that the Commission may take statistical evidence of major carriers as typical of all carriers.

We conclude that the present rates and charges are inadequate and do not provide the carriers with sufficient revenues to provide, in the public interest, an adequate and efficient transportation service. We further conclude that Respondents have met the tests provided by the statutes and have proved that the suspended rates and charges are not excessive but are just and reasonable.

The orders of the Commission suspending and investigating the proposed rates and charges under review herein will be vacated and the said rates allowed to become effective subject to the publication of certain tariff provisions as hereinafter prescribed.

IT IS, THEREFORE, ORDERED:

(1) That the Order of the Commission dated May 23, 1969, suspending revised rates, rules, regulations and charges, proposed for application on shipments of household goods, as set forth in the tariff publications named in said order,

be, and the same hereby is, vacated and set aside for the purpose of allowing the rates, rules and charges herein under suspension to be made effective in the manner and subject to the conditions hereinafter ordered.

(2) That in making publication under the provisions of this order Respondents shall make the approved rates and charges subject to the same released value provisions and all other rules and regulations published in their interstate tariffs for protection of the public from loss or damage to property while in the possession of carrier.

This includes the following interstate provisions published in Household Goods Carriers' Bureau Tariff No. 126-A, MF-ICC No. 142:

(a) The preamble to Section II of the tariff, governing application of the rates in that section as published on Page 17, of Supplement 8.

(b) The provision for surcharge of 75 cents (except expiration date) as set forth in Item 168A, of Supplement 10.

(c) The "Valuation Charges" as published in Item 190B of Supplement 8.

The conversion tables used in arriving at rates and charges for application on shipments released to a value exceeding 30 cents per pound per article, and rules and regulations pertaining thereto, shall be canceled from the intrastate tariffs of Respondents.

(3) That publication authorized herein may be made on one (1) day's notice but shall otherwise comply with the rules and regulations of the Commission governing the construction and filing of tariff schedules.

(4) That in making publication authorized hereby the three Tariff Publication Agents shall observe a uniform effective date.

(5) That, upon publication having been made in compliance with the provisions of this order, the proceeding be discontinued, and the same is hereby considered as discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 129
DOCKET NO. T-825, SUB 130

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed Motor Truck Rule and Charge for Cleaning of Tank Vehicles Scheduled to Become Effective August 16, 1969 (Sub 129), and Suspension and Investigation of Proposed Increase in Rates on Commodities, in Bulk, Scheduled to Become Effective October 6, 1969 (Sub 130)) ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on November 12, 1969, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott and Commissioners Clawson L. Williams, Jr., and Marvin R. Wooten (Presiding)

APPEARANCES:

For the Respondents:

J. Ruffin Bailey
Bailey, Dixon, Wooten & McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina

For the Protestant:

Thomas J. McNulty
Carolina By-Products Company, Inc.
Greensboro, North Carolina
(Appearing for himself)

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney

WOOTEN, COMMISSIONER: The suspensions and investigations in these cases were ordered by the Commission following the filing, on statutory notice, by North Carolina Motor Carriers Association, Inc., Agent, of a tariff schedule, for and on behalf of its member carriers proposing a rule and charge for cleaning tank vehicles; said publication was designated as Item 337 of Supplement No. 23 to North Carolina Motor Carriers Association, Inc., Agent, Tariff No. 21-B, N.C.U.C. No. 83 (Docket No. T-825, Sub 129); and the filing by said agent of tariff schedules proposing an increase of (4%) in the rates with a minimum of (1) cent per 100 pounds, on commodities in bulk, said filing being designated as North Carolina Motor Carriers Association, Inc., Agent, Local Motor Freight Tariff No. 21-B, N.C.U.C.

No. 83, Supplement No. 26 thereto, in full, Item 4150-A of Supplement No. 27 thereto (Docket No. T-825, Sub 130).

Upon consideration of these filings, after suspension and investigation was ordered, and upon consideration of the publication made in Supplement No. 30 to North Carolina Motor Carriers Association Local Motor Freight Tariff No. 21-B, N.C.U.C. 83, by the respondents proposing to revise the scale of rates applicable on shipments of salt, in bulk, in truckloads, the Commission concluded and ordered that its order of suspension in the matter in Docket No. T-825, Sub 130, should be amended to eliminate therefrom the suspension of the proposed increase insofar as proposed to be made applicable on shipments of salt, in bulk, and that a separate investigation should be instituted into and concerning the proposed revision in rates applicable on that commodity, and thereby discontinued the investigation with reference thereto, effective with the issuance of Order in Docket No. T-825, Sub 133. The Commission further concluded and ordered that the matters in Docket No. T-825, Sub 129 and Docket No. T-825, Sub 130 be consolidated for hearing, record, and judgment and set the matters for hearing on November 12, 1969, at 10:00 o'clock A.M. at which time said hearing was conducted.

The respondents and Commission's staff were present at the hearing and represented by counsel and witnesses. No protests to the proposed increase, rule and charge were filed and only one witness appeared at the hearing to make a statement in opposition thereto. The witness appearing making a statement opposing the rate increase, the rule, and charge was Mr. Thomas J. McNulty, Vice President, Carolina By-Products Company, Inc., Greensboro, North Carolina.

The respondents presented as its first witness Mr. L. E. Forrest, Traffic Manager for the North Carolina Motor Carriers Association, Inc., Raleigh, North Carolina. This witness was presented for the purpose of explaining generally what the filings involved in these matters proposed. He pointed out that the filings proposed a new rule regarding the cleaning of tank vehicles, setting a charge of $35.00 for the cleaning of the same after transporting certain specific commodities therein listed. This witness further testified that the filings herein proposed a (4%) increase in the rates with a minimum of (1) cent per 100 pounds, on commodities in bulk; that the railroads did not have a charge for cleaning tank vehicles, since under their rules the same are cleaned by the shipper; that the increases and charges here proposed are brought about by an upward spiralling of inflation, naming specifically a new two cents gasoline tax, a (25%) increase in license fees, and the Federal weight tax increase as well as other inflationary increases in the basic cost of operation; that notice of these filings was given to thirty (30) carriers and one hundred and forty-one (141) shippers by U. S. Mail; that the cost of cleaning tank vehicles had heretofore been absorbed by the carriers but that spiralling

cost justifies and requires the new charge proposed for such accessorial services; and the witness gave a general history of the progress of the rates here involved dating from the late 1950's to the date of the filings in these matters.

The next witness presented by the respondents was Mr. Joe C. Day, Assistant Traffic Manager for Chemical Leaman Tank Lines, Inc., Greensboro, North Carolina. This witness testified that he had been serving as a motor transportation traffic manager for over seven years; that the scope of authority of Chemical Leaman Tank Lines, Inc., was liquid commodities between points and places within North Carolina, statewide; that there was definitely a need for the proposed rule and charge for cleaning tank vehicles; that the specific articles listed in the proposed rule were the articles which were the hardest and most expensive to clean; that due to spiralling costs, the present rates simply do not cover the cost of cleaning; that the proposed increased rates are justified in themselves and, if allowed, would not cover tank truck cleaning costs; that the carriers incurred great expense in the cleaning of tank vehicles after the hauling of commodities listed in the proposed rule and in the disposal of waste produced thereby; that his company maintains cleaning facilities in Greensboro, Charlotte and Fayetteville; that his company incurs $25.00 per day expenses for permits to dispose of waste produced through cleaning tank vehicles; that the cost of chemical solutions, wages, gas masks, chemical suits, scrapers, brushes, etc., have increased substantially and that said items are necessary in the furnishing of cleaning services; that the time required for cleaning tank vehicles varies from forty-five minutes to one hour and up to six to seven hours; that the cleaning of some vehicles took as long as six days; that very few, if any, trucks are ever cleaned in the period of time less than two hours; that there is a charge for dumping permits in Fayetteville and Charlotte also, but that he did not know the cost of the same; that the hauling of many of the items listed in the new rule required several months training of the driver before he could handle the commodities properly; that essentially, each driver serves as a kind of maintenance man, safety inspector, and public relations man once he is assigned to his vehicle; that not only is the driver required to be familiar with all of the trucking company's equipment, but he must also know how to adapt the delivery of many of the articles to any kind of bulk storage system which the consignee has installed; that the cost of providing training and paying salaries for specialized truck drivers has increased considerably in the last two years; that for the nine months ending September 30, 1969, Chemical Leaman Tank Lines, Inc., had an operating ratio of 91.0% for its system-wide operations; that Chemical Leaman's intrastate operations for the same period had an operating ratio of 108.2%; that the allocation of intrastate and interstate income and expenses were made in accord with the respondent's Exhibit 47, allocating the same on a percentage basis from 10% to 19.8%, depending upon the classification of the income or expenses as explained in

said exhibit; that the proposed rates and charges would improve the operating ratio of the Chemical Leaman Tank Lines, Inc., intrastate operations, but that the same would continue to be an unfavorable ratio; and that his company's interstate operations are more profitable and are subsidizing to a large extent its intrastate operations and his company would be required to go out of business if they had to rely solely upon intrastate revenues when compared to their intrastate expenses in connection with their intrastate operations. The witness further testified to and presented some forty-three exhibits showing sample shipments of items involved in the tariffs herein, which he described as fair samples of their operations, each of which exhibits and samples shows a loss.

Mr. Richard S. Shaw, Vice President of Central Transport Company, High Point, North Carolina, testified in support of the rule, charge, and rate increase in this case and pointed out that the cost of equipment, supplies, wages, and every other item involved in its operation had increased considerably since 1966; the witness presented two exhibits numbered Respondent's Nos. 52 and 53; Exhibit No. 52 lists specific increases in certain items ranging from the cost of vehicles, chemicals, wages, tax, insurance to interest on all substantial increases; his Exhibit No. 53 related to the cost of cleaning tanks after hauling commodities listed in Item 337, which is the proposed new rule, showing cost ranging from $37.50 to $67.50; this witness' testimony was in support of the proposed increase and served in some measure to substantiate and justify the same.

Mr. James B. Swing, Vice President, Maybelle Transport Company, Lexington, North Carolina, testified for the respondent in support of the proposed new rule and charges and rate increase and presented Exhibit No. 54 showing substantial increases in the cost of vehicular equipment used in the transportation of commodities involved in these matters; he further testified that his company's intrastate operating ratio was high and that the rate relief here being requested was absolutely necessary if their operations were to continue or if the same were to be profitable.

Upon the conclusion of the respondent's evidence and case, the respondents moved the Commission to amend its filing in this case amending Item 337, "Cleaning Charges" to strike surface coating and compounds from the item listed thereunder and to add "compounds, surface coating" thereto, explaining that said amendment would serve to clarify the items as previously listed and would not enlarge the scope of the proceeding nor change the same, but merely explained what was meant in that connection. Without objection, the motion for amendment in this connection was allowed.

The respondents further moved at the close of their case, that the rule proposed as Item 337, "Cleaning Charges", be amended so as to allow only one cleaning charge for tank vehicles where there were more than one load of the same

commodity tendered and cleaning is not needed. The motion was allowed and the respondents were advised that their motion would be considered in any order to be issued by the Commission in this case.

Mr. Thomas J. McNulty, Vice President, Carolina By-Products Company, Inc., Greensboro, North Carolina, appeared and requested the opportunity to make a statement. After being sworn, Mr. McNulty testified that he was taking exception to, objecting to, and protesting to the approval of any cleaning charge for the items listed in the cleaning charge as animal and vegetable fats and oils and blends thereof, in that he stated that said items were not expensive but on the contrary involved only a nominal cost; that in his opinion the present rates included the cleaning charge and that the increase, if allowed, would more than cover the same; that the carriers had a twenty-five to thirty-five per cent rate increase less than two years ago and that he did not believe that the rule or rate increase in this case should be allowed, at least, insofar as the same applied to animal and vegetable fats and oils and blends thereof; that he seldom used the service of a common carrier in the movement of his company's products in that his company did most of their own hauling; that his experience was that a little steam and a little caustic would clean a vehicle at nominal cost.

The staff presented Mr. T. G. Killian, Director of Traffic for the North Carolina Utilities Commission, as its only witness. Mr. Killian presented and explained his Exhibit 1 which was a statement showing past, present, and suspended rates applicable on certain commodities in bulk with per cent of increase, proposed rates over present rates, earnings by truckload and per mile on basis of proposed rates; the exhibit presented the motor carrier development of rates on several items, including (1) glues, liquid, and synthetic resins, (2) salt, dry, in bulk, in hopper, dump or pneumatic type vehicles, (3) nitrogen solutions and nitrogen fertilizer solutions, liquid, in tank truckloads, (4) phosphate fertilizer solutions, truckload, (5) caustic soda, (6) cornstarch dry, in bulk, in tank vehicles, and (7) liquid sugar; the staff witness testified that the respondents here are seeking an increase of (4%) in their rates and charges with a minimum of (1) cent per 100 pounds, on commodities in bulk, and the establishment of a new rule and charge of $35.00 for the cleaning of tank vehicles; the staff also presented an exhibit tending to show the operating revenues, expenses and ratios for the year 1968, operating ratio groups which tended to show that seven participating carriers had operating ratios of 90% or less, five such carriers had operating ratios 90.1% to 93.6%, six such carriers with a ratio of 93.7% to 100% and three such carriers with operating ratios over 100%; and finally, the staff presented an exhibit explained by Witness Killian showing the operating revenues, expenses and ratios for North Carolina, with certain exceptions, for the years 1966, 1967, and 1968, of motor carriers parties to the North

Carolina Motor Carriers Association, Inc., Agent, Bulk Commodity Tariff No. 21 Series.

Based on the evidence adduced in these proceedings, we make the following

FINDINGS OF FACT

1. The respondent carriers participating in the tariff schedule involved in these proceedings containing rates and charges on commodities in bulk, and the proposed new rule and charge for cleaning tank vehicles, are subject to the jurisdiction of, and regulated by, this Commission, and said carriers are properly before this Commission in these proceedings.

2. The rates applicable on shipments of salt, in bulk, in truckloads, are not in issue in these proceedings.

3. The cost of performing a service involving the transportation of commodities, in bulk, by motor vehicle has increased since September, 1968, and further has increased since January 27, 1969; the evidence also shows an embedded and spiralling cost involving the cleaning of tank vehicles when necessary, after the transporting of certain hard-to-clean items and commodities.

4. Respondents' present rates and charges are not sufficient to permit them to continue to perform an adequate, economical and sufficient service to all shippers and receivers.

5. Respondents are in need of additional revenues and should be allowed to make effective the proposed increase of (4%) with a minimum of (1) cent per 100 pounds in their rates and charges on commodities in bulk, to meet the increased cost of operation and enable them to preserve and continue all motor carrier services now afforded to the using and consuming public of the State engaged in the production of various commodities and the distribution of the same in bulk.

6. That the new rule and charge of $35.00 for the cleaning of tank vehicles after the transporting of "hard-to-clean" items listed in said new rule and the rates otherwise proposed in these proceedings are found to be just and reasonable, except that no such cleaning charge should be allowed in any case in which the carrier can utilize the said tank vehicle in the hauling of like or compatible commodities economically for the same or other shippers or receivers, except where such cleaning is required for the preservation of the equipment.

CONCLUSIONS

In consideration of the record in these proceedings and the foregoing findings of fact, we conclude that the

proposed increase in rates and charges, and practices in connection therewith, as set forth in Docket No. T-825, Sub 130, should be allowed to become effective.

We further conclude that the new rule and charge of $35.00 for cleaning tank vehicles as set forth in the publication suspended by Order in Docket No. T-825, Sub 129 and designated as Item 337 of Supplement No. 23, as amended by motion in these proceedings, is reasonable and should be allowed to become effective, except that the carriers participating should file, on one day's notice, a revised and amended rule which provides: (1) that no cleaning charge will be assessed in any instance where cleaning is not actually performed; (2) that no cleaning charge shall be assessed on any movement unless the vehicle was delivered to the shipper in a clean condition; and (3) that no cleaning charge shall be assessed in any case where the carrier is in a position to utilize its vehicle for more than one, or repeated, movement of the same or compatible items or commodities.

IT IS, THEREFORE, ORDERED:

(1) That the Order of Suspension in Docket No. T-825, Sub 130, dated September 17, 1969, be, and the same is, hereby vacated and set aside for the purpose of allowing the suspended adjustment as set forth in the tariff schedule hereinbefore named and described to be made effective.

(2) That the participating carriers shall file with this Commission a new and revised rule and charge for the cleaning of tank vehicles in accord with this order and that the same, upon such revised filing, should then be allowed to become effective.

(3) That the publication authorized in (1) and (2) above may be made effective on one day's notice to the Commission and the public.

(4) That upon publication authorized hereby having been made, these proceedings be discontinued and the same are hereby considered as discontinued (except that portion of these proceedings covered by order of this Commission dated November 5, 1969, in Docket No. T-825, Sub 130, involving shipments of salt, in bulk, in truckloads, which was thereby transferred to a separate proceeding, Docket No. T-825, Sub 133).

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of November, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1386, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application to transfer authority contained) RECOMMENDED
in Common Carrier Certificate No. C-105 from) ORDER
Lacy D. Britt to A & J Motor Lines, Inc.)

HEARD IN: The Courtroom of the Commission, Raleigh, North Carolina, on July 22, 1969, 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 Protestants:

Thomas D. Bunn
Hatch, Little, Bunn & Jones
P. O. Box 527, Raleigh, North Carolina
For: Overnite Transportation Company
Thurston Motor Lines, Inc.

HUGHES, EXAMINER: By joint application filed with the Commission on June 9, 1969, Lacy D. Britt, P. O. Box 687, Lumberton, North Carolina, as Transferor, and A & J Motor Lines, Inc., P. O. Box 237, Louisburg, North Carolina, as Transferee, seek approval of the transfer from said Transferor to said Transferee of all of the authority contained in Certificate No. C-105. The involved authority reads as follows:

"The transportation of general commodities, except those requiring special equipment and except unmanufactured tobacco in hogsheads over irregular routes, between points and places within the following counties: Buncombe, Mecklenburg, Forsyth, Davidson, Guilford, Anson, Richmond, Scotland, Robeson, Columbus, New Hanover, Bladen, Duplin, Sampson, Cumberland, Lee, Wayne, Wake, Rowan, Alamance, Durham, Montgomery, Hoke, and Johnston.

LIMITATION: Truckload only."

Notice of the application, together with a description of the rights involved, along with the time and place of hearing, was published in the Commission's Calendar of Hearings issued on July 1, 1969. A joint Protest and Motion to Intervene was timely filed by Overnite Transportation Company and Thurston Motor Lines, Inc.

All parties were either present at the hearing or represented by counsel.

In their written protest, Protestants alleged, among other things, that the general commodity authority which the Transferor proposes to sell and transfer, has not been operated by Transferor and has become dormant and that the Transferor has nothing to sell and transfer.

The evidence and the records of the Commission tend to show that Transferor has been in the trucking business for some forty (40) years; that the certificate which contains the involved authority, was acquired under the grandfather provisions of the Truck Act of 1947; that Transferor has engaged continuously and is presently engaged in the transportation of general commodities within the scope of his authority and has held himself out to engage in such transportation without interruption; that a contract between Transferor and Transferee was entered into on June 5, 1969, under the provisions of which Transferor agreed to sell and Transferee agreed to purchase all of the operating rights of Transferor under Certificate No. C-105, for a total consideration in the amount of $5,000.00. It further appears from the evidence that there are no debts or claims against Transferor of the nature specified in G.S. 62-111(c).

It further appears that Transferee, A & J Motor Lines, Inc., is a corporation organized under the laws of the State of North Carolina; that said Transferee is the holder of a common carrier certificate heretofore issued to Transferee by the North Carolina Utilities Commission authorizing the transportation of certain specific commodities and that operations are presently being carried on thereunder; that said Transferee corporation is fully qualified financially and otherwise to acquire the authority sought to be transferred and to conduct operations thereunder in a manner satisfactory to the shipping public and to this Commission.

Counsel for Protestants stated for the record that he had caused a Subpoena Duces Tecum to be issued by the Chief Clerk of the North Carolina Utilities Commission requiring Transferor to appear before the Commission at the hearing and have with him "documentary evidence of all intrastate shipments of general commodities over irregular routes by Lacy D. Britt within North Carolina for the period beginning January 1, 1969, to the date of hearing on July 22, 1969, or the last date that such records are available. That such shipments in intrastate commerce should be substantiated by weigh bills and bills of lading." Upon learning that said Subpoena had apparently not been properly served, Protestants' attorney moved that the hearing be continued until a future date at which time, Transferor would be expected to produce the said documentary evidence. The motion was denied. Protestants' attorney then stated for the record that Protestants were only interested in the question of dormancy and if it could be shown to their

satisfaction that the authority was active, they would have no further interest in the case. No direct evidence was offered by Protestants.

Upon consideration of the evidence adduced, the testimony of record as well as the records of the Commission, the Hearing Examiner makes the following

FINDINGS OF FACT

(1) That Lacy D. Britt is a common carrier subject to the jurisdiction of this Commission and as such is authorized, among other things, to engage in the transportation of general commodities in truckload lots, within the territory described in Exhibit B hereto attached, and has held himself out continuously since he acquired such authority to engage in such transportation.

(2) That Transferor and Transferee have entered into a written contract for the sale and transfer of said authority, under the terms of which, the total consideration involved in the proposed transaction is $5,000.00.

(3) That there are no debts or claims against Transferor of the nature specified in G.S. 62-111(c).

(4) That Transferee, A & J Motor Lines, Inc., is a corporation organized under the laws of the State of North Carolina, and that said Transferee presently holds a common carrier certificate heretofore issued to it by this Commission and is qualified financially and otherwise to acquire the authority sought to be transferred and to render service under said authority on a continuing basis.

(5) That the transfer of the authority described in Exhibit B hereto attached will not create an additional carrier in competition with existing carriers and that the proposed transfer and sale 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 dormant or 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.

The Hearing Examiner concludes that Applicants have met the foregoing requirements and that the sale and transfer of the authority, more particularly described in Exhibit B hereto attached, from Lacy D. Britt to A & J Motor Lines, Inc., should be approved.

IT IS, THEREFORE, ORDERED That the sale and transfer of the authority more fully described in Exhibit B hereto attached, from Lacy D. Britt, Lumberton, North Carolina, to A & J Motor Lines, Inc., Louisburg, North Carolina, be, and the same is, hereby approved.

IT IS FURTHER ORDERED That A & J Motor Lines, Inc., 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 30th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. T-1386 SUB 3

A & J Motor Lines, Inc.
Irregular Route Common Carrier
Louisburg, North Carolina

EXHIBIT B

The transportation of general commodities, except those requiring special equipment and except unmanufactured tobacco in hogsheads over irregular routes, between points and places within the following counties: Buncombe, Mecklenburg, Forsyth, Davidson, Guilford, Anson, Richmond, Scotland, Robeson, Columbus, New Hanover, Bladen, Duplin, Sampson, Cumberland, Lee, Wayne, Wake, Rowan, Alamance, Durham, Montgomery, Hoke and Johnston.

LIMITATION: Truckload only.

DOCKET NO. T-1468

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Joint Application for the Sale and Transfer of Certificate No. C-114 from C. & S. Transport, O. W. Cleaton, d/b/a, P. O. Box 31, Wilmington, North Carolina, to Economy Transport, Inc., 159 South Stratford Road, Winston-Salem, North Carolina	ORDER APPROVING SALE AND TRANSFER

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on July 23, 1969

BEFORE: Chairman Harry T. Westcott, Commissioners Marvin R. Wooten, Clawson L. Williams, Jr., and John W. McDevitt, Presiding

APPEARANCES:

For the Applicant:

Addison Hewlett, Jr.
Attorney at Law
P. O. Box 121, Wilmington, North Carolina
For: C. & S. Transport & Economy Transport, Inc.

For the Protestants:

Lucius W. Pullen
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
For: Associated Petroleum Carriers
Petroleum Transportation, Inc.
O'Boyle Tank Lines, Inc.
Kenan Transport Company
Southern Oil Transportation Company, Inc.
M & M Tank Lines

McDEVITT, COMMISSIONER: By this joint application filed on June 23, 1969, C. & S. Transport Company (Transferor) seeks to sell and transfer, and Economy Transport, Inc. (Transferee) seeks to purchase and thereafter operate under North Carolina Utilities Commission Motor Carrier Certificate No. C-114 which contains the following operating authority:

Irregular Route Common Carrier Authority

"Transportation of petroleum and petroleum products in bulk, in tank trucks, over irregular routes, from all existing originating terminals at or near Wilmington, Morehead City, River Terminal, Thrift, Friendship, Salisbury, Apex, Fayetteville and Selma to all points and

places within the entire State of North Carolina, 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."

The application was scheduled for hearing and duly noticed in the Calendar of Hearings issued July 1, 1969. Protest and motion for intervention was filed on July 18, 1969, by Associated Petroleum Carriers, Petroleum Transportation, O'Boyle Tank Lines, Inc., Kenan Transportation Company, Southern Oil Transportation Company, Inc., and M & M Tank Lines. Public hearing was held with parties and counsel present as captioned. Subsequently the parties by letter elected not to file written briefs.

The Protestants contend in their protest and motion for intervention that they are common carriers of property by motor vehicle operating in intrastate commerce and are actively engaged in the transportation of petroleum and petroleum products in bulk in tank trucks to all points and places in the State of North Carolina from originating terminals as specified in their respective certificates; that the operating authority sought to be transferred covers the type of transportation, operations and commodities presently transported by the Protestants; that the proposed sale and transfer is not justified by public convenience and necessity and is contrary to the transportation policy prescribed in the utilities law and does not comply with the requirements of G.S. 62-111; that the operating rights contained in Certificate No. C-114 have not been fully operated and are now dormant; that the proposed sale and transfer would amount to creation of a new service and authority not heretofore existing and is not justified by public convenience and necessity; that the Transferee is not fit nor able to perform the service sought to be transferred; that the granting of the application would adversely affect the service to the public rendered by the Protestants and would deprive the Protestants of commodities which they are authorized to transport and would unnecessarily duplicate franchise rights of the Protestants.

Protestant witness, Carl E. Helms, Traffic Manager for Petroleum Transportation, Inc., testified that his company has authority similar to that described in Certificate No. C-114 and offers the same service in all of Eastern North Carolina; that his company does not now have a terminal in Wilmington and does not have any equipment stationed at Wilmington at the present time; that Petroleum Transportation, Inc., is willing to serve shippers who desire petroleum products transported to Elm City but that it did not haul any petroleum products into Elm City during the period April or July of 1969; that it did not haul any petroleum products into Elizabeth City, Greenville or Kinston during the 60-day period prior to the date of the hearing.

Witness O. W. Cleaton, owner of C. & S. Transport, testified that he has owned and operated under Certificate No. C-114 for 23 years, having received his operating rights under the grandfather clause upon enactment of the Public Utilities Act; that C. & S. Transport Company serves customers daily; that C. & S. presently hauls petroleum products from Wilmington to various points within the City of Wilmington, Leland, Acme, Delco, Hallsboro, Whiteville, Tabor City, Lumberton, St. Paul, Maxton, Swansboro, Garland, and Fayetteville; that he is selling his business because of advancing age and poor health; that C. & S. has no delinquent debts or taxes; that the employees of C. & S. will continue as employees of the Transferee; that transportation revenue for the months of April, May and June 1969 ranged between $5,000 and $5,500; that the commodities transported consisted mostly of gasoline, kerosene and some fuel oil; that C. & S. has four drivers and one mechanic; that C. & S. owns eight pieces of transportation equipment and presently operates one 1957 Mack tractor, one 1967 White tractor, and one 1956 Mack tractor, one 7,000 gallon tanker and one 6,700 gallon tanker and one 5,850 gallon tanker; that C. & S. has hauled petroleum products within the scope of its authority to and from various points as required from time to time and has consistently held itself out to the public to perform the transportation service authorized in its Certificate No. C-114; that C. & S. has never denied transportation service to any shipper.

Transferee, Roger Page, Jr., an officer in Economy Transport, Inc., testified that he negotiated the contract with O. W. Cleaton for the purchase of the franchise and the equipment of C. & S. Transport Company; that arrangements have been made for liability and cargo insurance; that the employees of C. & S. Transport have been employed by Economy Transport; that William V. Dick who has twenty years of experience in motor transportation has been employed as Manager of Economy Transport; that Economy Transport will continue to serve the customers now served by C. & S. Transport; that the stockholders of Economy Transport, Inc. will provide the financial support needed to operate and provide the required service; that Economy Transport is a North Carolina corporation formed in April 1969; that he, Roger Page, Jr., owns 50% of the stock in the corporation and the remaining 50% is owned by Woodrow Barrow, Sr., Max Barrow and Woodrow Barrow, Jr.; that Economy Transport has issued 20,000 shares of stock at $1.00 par value represented by $20,000 on deposit with the First Union National Bank of North Carolina; that he owns Page Oil Company and Pace Oil Company, Inc., operators of 138 service stations throughout North Carolina engaged in the retail gasoline business which are supplied by his own tankers supplemented by the transportation services of M & M Tank Lines, C. & S. Transport and Petroleum Transportation Company; that Economy Transport will pay $46,000 for the operating rights and equipment of C. & S. Transport under the terms of an option to purchase dated April 21, 1969.

Transferee witness, William V. Dick, testified that he has been employed as Manager of Economy Transport; that he has had over twenty years of experience in motor transportation business with common carriers and private operations; that he has been employed by Page Oil Company for two years as assistant to Mr. Page during which time he has been learning all phases of the petroleum business including transportation.

Based on the exhibits and testimony of the witnesses, the Commission makes the following

FINDINGS OF FACT

1. Transferor, O. W. Cleaton, d/b/a, C. & S. Transport is the owner of the operating rights contained in Certificate No. C-114 and has been operating under said rights continuously and said rights are not dormant. There are no debts or claims against the Transferor of the nature set out in G.S. 62-111.

2. Transferee, Economy Transport, Inc., is a North Carolina corporation whose officers are Robert Page, Jr., President; Woodrow G. Barrow, Sr., Woodrow G. Barrow, Jr., and Max D. Barrow, Directors. Twenty thousand shares of $1.00 par value stock have been issued and the stockholders have committed themselves to provide the additional funds necessary to acquire and operate the business under the terms of the sale and transfer and in accordance with the requirements of the North Carolina Utilities Commission. Transferee is ready, willing and able financially and otherwise to meet the reasonable demands as the business may require.

3. The transfer of the operating rights involved herein will be consistent with the public interest and is justified by public convenience and necessity.

4. Transferor, O. W. Cleaton, d/b/a, C. & S. Transport Company, and Transferee Economy Transport, Inc., have entered into an agreement for the sale and transfer of said operating rights and equipment for the consideration of $46,000.

5. That the Transferor has continuously operated the certificate up to the time of the transfer and it is not dormant.

CONCLUSIONS

The Protestants offered no evidence to support its allegation that the operating authority in Certificate No. C-114 is dormant. On the contrary, the Transferee through the testimony of its owner O. W. Cleaton and supporting exhibits showed clearly that it has operated continuously in fulfillment of the statutory requirements of G.S. 62-111. Public convenience and necessity having been shown and found

when motor freight carrier authority was originally issued, the statutory requirement in G.S. 62-111 that approval of the sale and transfer of motor carrier rights shall be given "if justified by the public convenience and necessity" is satisfied by the Transferee's showing that the authority has been and is being actively operated in satisfaction of the public need theretofore found. To hold otherwise would diminish the value of existing motor freight franchises and deprive the holders thereof of valuable rights. We conclude that the proposed sale and transfer is justified by the public convenience and necessity; that the sale is for a bona fide purpose and that the applicant transferee is financially solvent and in all respects ready, willing and able to provide the service authorized in Certificate No. C-114 on a continuing basis.

IT IS, THEREFORE, ORDERED That the sale and transfer of the operating rights under common carrier Certificate No. C-114 set forth in Exhibit B hereto attached from C. & S. Transport, O. W. Cleaton, d/b/a, to Economy Transport, Inc., be, and the same is, hereby approved.

IT IS FURTHER ORDERED That Economy Transport, Inc., comply with the Commission's rules and regulations relative to the filing of tariffs of rates and charges, evidence of insurance coverage 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 of the issuance of this order.

IT IS FURTHER ORDERED That upon consummation of the sale, common carrier Certificate No. C-114 shall be surrendered to the Commission for cancellation and the same shall be cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of August, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

Docket No. T-1468

Economy Transport, Inc.
159 South Stratford Road
Winston-Salem, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of petroleum and petroleum products in bulk, in tank trucks, over irregular routes, from all existing originating terminals at or near Wilmington, Morehead City, River Terminal, Thrift, Friendship,

Salisbury, Apex, Fayetteville and Selma to all points and places within the entire State of North Carolina, 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.

DOCKET NO. T-1425

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
The Joint Application for Sale and Transfer of a Portion of Certificate CP-16 from West Brothers Transfer and Storage, Inc., P. O. Box 6365, Raleigh, North Carolina, to Glosson Motor Lines, Inc., Hargrave Road, Lexington, North Carolina	RECOMMENDED ORDER APPROVING SALE

HEARD IN: The Utilities Commission Hearing Room, Raleigh, North Carolina, June 19, 1968, at 10:00 A.M.

BEFORE: Commissioner John W. McDevitt

APPEARANCES:

For the Applicants:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carclina

For the Protestants:

J. Ruffin Bailey
Bailey, Dixon & Wooten
P. O. Box 2246, Raleigh, North Carolina
For: Fredrickson Motor Express Corporation
Thurston Motor Lines, Inc.

McDEVITT, HEARING COMMISSIONER: Public hearing was scheduled and held as captioned. Protests were filed by Fredrickson Motor Express Corporation and Thurston Motor Lines, Inc. Joint applicants, West Brothers and Glosson Motor Lines, Inc., and Protestants, Fredrickson and Thurston, were present and represented by counsel.

In support of the joint application, West Brothers offered the testimony of Floyd E. West, President, and Mrs. Mary A. West, Accountant, tending to show that it is the holder of North Carolina Utilities Commission Common Carrier

Certificate CP-16 authorizing operations as an irregular route common carrier and as a contract carrier of property including (1) General commodities within 150 mile radius of Raleigh except those requiring special equipment and except unmanufactured leaf tobacco; (2) Household goods; and (3) Retail store delivery from retail stores to their customers within a 50 mile radius of Raleigh and return or exchange of said merchandise; that West Brothers has entered into a contract to sell and transfer that portion of its authority relating to general commodities as set forth above to Glosson Motor Lines, Inc.; that West Brothers owns and operates 36 truck units and 23 trailers; that West Brothers has no debts or claims outstanding within the meaning of G.S. 62-111; that West Brothers has continuously held itself out to the public to render the transportation service which it seeks to sell and has engaged in the transportation of general commodities as authorized by its Certificate CP-16.

Applicant, Glosson Motor Lines, offered the testimony of James Martin, General Manager, tending to show that Glosson has entered in the contract with West Brothers for the purchase of West Brothers' intrastate operating rights for general commodities as set forth above; that Glosson has extensive interstate operating rights in several states including North Carolina, Virginia, New Jersey, New York, Kentucky and Delaware; that Glosson owns and operates 190 tractors and 345 trailers; that Glosson, as of March 1968, had total assets of $3,647,738, and net profits for the year ending December 31, 1967, of $82,732; that Glosson has terminals and equipment in Charlotte and Lexington and is prepared to render the service to be acquired.

Protestants, Fredrickson Motor Express Corporation and Thurston Motor Lines, Inc., did not offer testimony of witnesses but through counsel placed in the record by reference their certificates, equipment list, financial reports and tariffs. The protests and briefs filed by the Protestants tend to show that each is authorized to transport general commodities except those requiring special equipment over routes set forth in their respective certificates. They allege that the authority to be sold has not been operated for some considerable time and is therefore dormant; that the granting of the application would create new authority which would deprive protestants of freight they are authorized to move.

Based on the testimony and documentary evidence, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. Transferor, West Brothers, is a duly organized and existing North Carolina corporation, with principal offices in Raleigh, and holds North Carolina Utilities Commission intrastate operating authority under Certificate CP-16 including the following portion which it proposes to sell to Glosson Motor Lines, Inc.:

"Item I. Transportation of General Commodities, except those requiring special equipment and except unmanufactured leaf tobacco, between points and places within 150 miles of Raleigh, North Carolina."

2. Transferee, Glosson Motor Lines, Inc., is a duly organized and existing North Carolina corporation with principal offices in Lexington and is the holder and operator of extensive interstate operating authority under ICC Certificate No. MC 41255. Glosson owns and operates 190 tractors and 345 trailers. Its net worth according to the balance sheet dated March 1968 was $1,140,368, and its net profit after taxes for the year ending December 31, 1967, was $82,732. Glosson is fit, willing and able financially and otherwise to perform the transportation service which it proposes to acquire.

3. Glosson and West entered into an agreement of sale dated January 15, 1968, whereby West proposes to sell and Glosson proposes to purchase, for $175,000, the operating authority set forth in Exhibit B attached hereto and made a part of this order.

4. West Brothers has at all times up to the date of the hearing held itself out to the public as ready, willing and able to transport commodities involved in this proceeding. West Brothers operates 36 trucks and 23 trailers, advertises in the yellow pages of the telephone directory, uses various sales promotion techniques, and publishes its tariff through the North Carolina Motor Carriers Association. Applicant's Exhibit 1 lists approximately 70 shipments for the years 1967 and 1968 originating in Raleigh with destinations to various points within 150 miles of Raleigh. Five (5) shipments from Wilmington to Mt. Olive were handled by another carrier under lease arrangement.

5. There are no debts or claims against Transferor, West Brothers, of the nature described in G.S. 62-111. Gross revenue for the period January 1 - March 31, 1968, was $1,531,105; net profit before taxes was $116,881, and total miles traveled was 3,407,561.

CONCLUSION

The Applicants have borne the burden of proof as required by G.S. 62-111, that the proposed sale is in the public interest, will not adversely affect service to the public under the said franchise, will not unlawfully affect service to the public by other public utilities. Transferee, Glosson Motor Lines, Inc., is fit, willing and able to perform said service to the public and the service to be transferred has been continuously offered to the public up to the time of filing of this application.

IT IS, THEREFORE, ORDERED that the application in Docket No. T-1425 be, and it is, hereby approved and West Brothers Transfer and Storage, Inc. is hereby permitted to sell and

Glosson Motor Lines, Inc. is permitted to purchase and operate the authority set out in Exhibit B attached hereto and made a part of this order.

IT IS FURTHER ORDERED that Glosson Motor Lines shall within thirty (30) days after the date of this order complete the sale and transfer and file with the Commission its equipment list, tariff schedule, and evidence of financial responsibility and shall otherwise comply with all Commission rules and regulations.

IT IS FURTHER ORDERED that the Chief Clerk of the Utilities Commission shall revise and reissue Certificate CP-16 in accordance with the provisions of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of May, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

Docket No. T-1425

Glosson Motor Lines, Inc.
Hargrave Road
Lexington, North Carolina

Irregular Route Common Carrier Authority

Exhibit B

Transportation of general commodities, except those requiring special equipment and except unmanufactured leaf tobacco, between points and places within a radius of 150 miles of Raleigh, North Carolina.

DOCKET NO. T-1479

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition and application for approval of the acquisition of all the outstanding stock of The New Dixie Lines, Incorporated, by Hemingway Transport, Inc., and the transfer to Hemingway Transport, Inc., of the operating authority of The New Dixie Lines, Incorporated	) ORDER APPROVING SALE AND TRANSFER OF STOCK AND OPERATING AUTHORITY

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on November 4, 1969, at 2:00 P.M.

BEFORE: Chairman H. T. Westcott and Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten (Presiding)

APPEARANCES:

For the Applicants, Hemingway Transport, Inc., The New Dixie Lines, Incorporated, and William F. Grinels:

Tom Steed, Jr., and
Arch T. Allen, III
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina

Frank McInerny
MacDonald & McInerny
Attorneys at Law
1000 Sixteenth St., N. E.
Washington, D. C. 20036

No Protestants

WOOTEN, COMMISSIONER: On September 4, 1969, The New Dixie Lines, Incorporated, Hemingway Transport, Inc., and William F. Grinels filed a petition and application with this Commission seeking approval of the transfer of all the outstanding capital stock and control of The New Dixie Lines, Incorporated, to Hemingway Transport, Inc., and for approval of the transfer to Hemingway Transport, Inc., of the operating authority of The New Dixie Lines, Incorporated, the stock transfer to be from William F. Grinels, who is the owner of all issued capital stock of The New Dixie Lines, Incorporated, except twenty-five shares held as treasury stock, to Hemingway Transport, Inc. Hearing was scheduled on the petition and application on the above date and time, and notice of said hearing was given in the Calendar of Hearings issued on September 15, 1969.

No protest was filed within the time provided, nor had any protest been filed by the time the matter came on for hearing and no protestant appeared at the hearing. The matter was called for hearing on the date, time and place above referred to, as calendared, and the applicants' attorneys introduced the evidence of one witness, Philip L. Hemingway, President of Hemingway Transport, Inc., and also introduced certain additional documentary evidence and exhibits.

The applicants also presented for introduction into evidence the petition and application heretofore referred to and all exhibits thereto attached.

Based upon the Commission's records, of which it takes judicial notice, from the verified petition, treated as an

affidavit, and from the documentary evidence introduced, the Commission makes the following

FINDINGS OF FACT

1. That the New Dixie Lines, Incorporated, is a corporation, organized and doing business under the laws of the State of Virginia, with its principal office and place of business located in Richmond, Virginia, and is authorized to and is actively engaged in the business of transporting property by motor vehicle in intrastate commerce in North Carolina, under the authority shown in Certificate No. C-472, issued by this Commission;

2. That Hemingway Transport, Inc., is a corporation, organized and doing business under the laws of the Commonwealth of Massachusetts, with its principal office and place of business being in New Bedford, Massachusetts; that said company has many years experience in the transportation of general commodities in interstate commerce, including the State of North Carolina, and is actively engaged in the motor transportation business in this and other States;

3. That all of the outstanding capital stock of The New Dixie Lines, Incorporated, except twenty-five shares held as treasury stock, is owned by William F. Grinels;

4. That William F. Grinels, The New Dixie Lines, Incorporated, and Hemingway Transport, Inc., have heretofore entered into a contract for the sale by William F. Grinels of all his stock to Hemingway Transport, Inc., and of the operating authority of The New Dixie Lines, Incorporated, to the said Hemingway Transport, Inc., for a total consideration of $1,650,000.00, upon the terms and conditions specified in their contract, made a part of the petition herein, said contract to be consummated upon the approval of the sale and transfer by the proper regulatory authority.

5. That the sale and transfer of the interstate authority owned by The New Dixie Lines, Incorporated, and William F. Grinels to Hemingway Transport, Inc., has heretofore been approved by the Interstate Commerce Commission;

6. That the sale by William F. Grinels of all the outstanding capital stock of The New Dixie Lines, Incorporated, and the transfer of control of The New Dixie Lines, Incorporated, and its intrastate authority to Hemingway Transport, Inc., will probably make for better and more efficient operation; and that said transfer will not be against the public interest but will be justified by the public convenience and necessity.

7. That there are outstanding debts of the type and kind enumerated in G.S. 62-111(c) and that an affidavit with reference thereto has been filed with the Commission; and

the transferee in this case being financially responsible, has agreed to and does assume all such obligations;

8. That Hemingway Transport, Inc., is a financially responsible corporation with motor carrier experience, which is fit, willing and able, both financially and through experience, to render the intrastate motor carrier service heretofore rendered by The New Dixie Lines, Incorporated, on a continuing basis in the State of North Carolina.

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

CONCLUSIONS

The provisions of the statute relating to the sale of stock of the kind involved here, which is in effect, and which will result in a change of control of the company, and the statute covering the transfer of operating authority, such as here involved, is contained in G.S. 62-111(a), which reads as follows:

"(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."

Applying the facts found, as above set out, to the applicable provisions of the law, the Commission concludes that the acquisition of the stock of William F. Grinels by Hemingway Transport, Inc., and the transfer of the operating certificate and authority of The New Dixie Lines, Incorporated, to Hemingway Transport, Inc., is justified by public convenience and necessity, and that the aforesaid individual owner should be authorized to sell and Hemingway Transport, Inc., should be authorized to acquire said stock in accordance with the terms of the agreement hereinabove referred to; and that the transfer of the operating authority contained in Certificate No. C-472 from The New Dixie Lines, Incorporated, to Hemingway Transport, Inc., should be approved.

Based on the foregoing findings and conclusions, the Commission enters the following

IT IS, THEREFORE, ORDERED, That the sale by the aforesaid individual owner of the said capital stock, and the acquisition by Hemingway Transport, Inc., of all the stock

of The New Dixie Lines, Incorporated, the present holder of Certificate No. C-472, issued by this Commission, be, and the same is, hereby approved.

IT IS FURTHER ORDERED, That the application for the transfer of the operating authority of The New Dixie Lines, Incorporated, to Hemingway Transport, Inc., be, and the same is, hereby approved, the same being fully described in Exhibits A and B hereto attached and made a part hereof.

IT IS FURTHER ORDERED, That upon the consummation of said sale, which must be consummated within ninety (90) days from the date of this order, the same shall be reported to the Commission in a report showing the date on which transfer was made, and at the same time the transferee shall file evidence with this Commission showing compliance with all of its rules, regulations and requirements.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of November, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1479

Hemingway Transport, Inc.
438 Dartmouth Street
New Bedford, Massachusetts

Regular Route Common Carrier Authority

EXHIBIT A

Transportation of general commodities except those requiring special equipment, over regular routes.

Route 1. Between Gastonia and Raleigh. From Gastonia over U.S. Highway 29 to the intersection of U.S. Highways 29-A and 29 at a point approximately nine miles east of Gastonia, thence over U.S. Highway 29-A to the intersection of U.S. Highways 29 and 29-A at a point approximately six miles north of Charlotte, thence over U.S. Highways 29 and 29-A to the intersection of Interstate Highway 85 and U.S. Highways 29 and 29-A at a point one mile north of China Grove, thence over U.S. Highway 29-A to the intersection of U.S. Highways 29 and 29-A at a point approximately one mile north of the Yadkin River, thence over U.S. Highways 29 and 29-A to the intersection of U.S. Highway 29 and 29-A at a point approximately one mile north of Thomasville, thence

over U.S. Highway 29-A to Greensboro, thence over U.S. Highway 70-A to the intersection of U.S. Highways 70 and 70-A at a point approximately one mile east of Efland, thence over U.S. Highways 70 and 70-A to Raleigh. Service is also authorized from intersection of U.S. Highway 29 and N.C. Highway 7 at a point 3.1 miles east of McAdenville over N.C. Highway 7 to Belmont, thence over N.C. Highway 7 to the intersection of U.S. Highway 29-A and N.C. Highway 7 at a point 10 miles west of Charlotte; also from Burlington to Graham over N.C. Highway 87, thence over N.C. Highway 49 to the intersection of U.S. Highway 70-A and N.C. Highway 49 at a point one mile west of Haw River; also from Durham over U.S. Highway 15 to the intersection of unnumbered N.C. Highway and U.S. Highway 15, thence over unnumbered N.C. Highway to Camp Butner; also from Durham over U.S. Highway 15 to Chapel Hill.

Route 2. Between Charlotte and Greensboro. From Charlotte over U.S. Highway 21 to the intersection of N.C. Highway 115 and U.S. Highway 21 at a point approximately six miles north of Charlotte, thence over N.C. Highway 115 to the intersection of U.S. Highway 21 and N.C. Highway 115 at a point three miles north of Mooresville, thence over U.S. Highway 21 to Statesville, thence over U.S. Highway 64 to Mocksville, thence over U.S. Highway 158 to Winston-Salem, thence over U.S. Highway 421 to Greensboro. Service is also authorized from intersection of U.S. Highway 421 and unnumbered N.C. Highway over unnumbered N.C. Highway to Pomona.

Route 3. Between Charlotte and Wilmington. From Charlotte over U.S. Highway 74 to Lumberton, thence over N.C. Highway 211 to Bolton, thence over U.S. Highway 74 to Wilmington. Service is also authorized from Lumberton over N.C. Highway 41 to Fairmont; also from Rockingham over U.S. Highway 1 to Aberdeen, thence over N.C. Highway 211 to Raeford,

thence over U.S. Highway 401 to Fayetteville, thence over N.C. Highway 87 and 210 to Fort Bragg.

Return over the aforesaid routes serving all intermediate points.

Route 4. Transportation of Group 1, General Commodities, except those requiring special vehicles or special equipment for hauling, loading, or unloading, or any special or unusual service in connection therewith, over the following regular route:

From Fayetteville over North Carolina Highway No. 24 to its intersection with North Carolina Highway No. 53, thence over North Carolina Highway No. 53 to Cedar Creek, and points and places within five (5) miles thereof and return, serving all intermediate points.

Route 5. 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-1479 Hemingway Transport, Inc.
438 Dartmouth Street
New Bedford, Massachusetts

Irregular Route Common Carrier Authority

EXHIBIT B (1) Transportation of general commodities, except those requiring special equipment, between all points and places in the counties of Mecklenburg, Forsyth, Guilford, Richmond, Moore, Robeson, Durham, Wake, Cumberland, Columbus, Johnston, Brunswick, New Hanover, Duplin, Wayne, Wilson, Edgecombe, Greene, Lenoir, Onslow, Pitt, Martin, Craven and Carteret.

(2) Transportation of general commodities, except those requiring special equipment, from Greensboro to points and places within the counties of Rowan, Stanly, Davidson, Rockingham, Alamance, Orange and Harnett.

(3) Transportation of general commodities, except those requiring special equipment:

(a) Between points and places within the County of Gaston.

(b) Between Gastonia and Charlotte.

(4) Transportation of general commodities, except those requiring special equipment, from all points and places in the counties of Mecklenburg, Forsyth, Guilford, Richmond, Moore, Robeson, Durham, Wake, Cumberland, Columbus, Johnston, Brunswick, New Hanover, Duplin, Wayne, Wilson, Edgecombe, Greene, Lenoir, Onslow, Pitt, Martin, Craven, Carteret, Rowan, Stanly, Davidson, Rockingham, Alamance, Orange and Harnett to all points and places in Pamlico County and south of Pamlico River in Beaufort County, including Washington, N.C., and return movements to the aforesaid points of origin.

(5) Transportation of general commodities, except those requiring special equipment:

(a) Between points and places in Cabarrus County.

(b) From points and places in Cabarrus County to points and places within 75 miles of Concord.

(c) From points and places within 75 miles of Concord to points and places in Cabarrus County.

(6) 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.

(7) Transportation of Group 17 - Textile Mill Goods and Supplies, including cotton, yarn, waste, warps, beams, and other materials and supplies used in the manufacture of textile products between all points and places within the State of North Carolina.

(8) Transportation of solid refrigerated products as defined in Group 5 of Rule 10 of the Commission's Rules and Regulations for the Administration and Enforcement of the North Carolina Truck Act, within the territory in which said Hemingway Transport, Inc., is authorized to transport general commodities as an irregular route common carrier.

(9) Transportation of Group 21, Electrical and telephone equipment and supplies, including cable, wire, reels, cable accessories, scrap, poles, power, or transmission line construction material from Tarboro to points and places in the counties of Hertford, Halifax, Vance, Nash, Edgecombe, Martin, Durham, Wake, Johnston, Wilson, Pitt, Beaufort, Lenoir, Craven, Carteret, Onslow, Harnett, Cumberland, Sampson, and Columbus and from these counties to Tarboro and to make on site deliveries upon request of customer.

NOTE: 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-139, SUB 13

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Sale of a Portion of Certificate No. C-339 From Service Transportation Corporation, Off U. S. 601, Box 51, Salisbury, North Carolina, to M & M Tank Lines, Inc., P. O. Box 4174, North Station, Winston-Salem, North Carolina) ORDER

HEARD IN: The Commission Hearing Room, Ruffin Bldg., Raleigh, North Carolina, November 20, 1968, at 10 a.m.

BEFORE: Commissioners Clawson L. Williams, Jr., (Presiding) John W. McDevitt, and M. Alexander Biggs, Jr.

APPEARANCES:

For the Applicants:

J. Ruffin Bailey, Esq.
Bailey, Dixon & Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina

For the Protestants:

Tom Steed, Jr., Esq.
Allen, Steed & Pullen
Attorneys at Law
Branch Bank Bldg.
Raleigh, North Carolina
For: Associated Petroleum Carriers
A. C. Widenhouse, Inc.
Southern Oil Transportation Co.
Terminal City Transport
Eastern Oil Transport
Schwerman Trucking Co.
Petroleum Transportation, Inc.
Carolina Asphalt & Petroleum Co.

WILLIAMS, COMMISSIONER: By application filed with the Commission on September 4, 1968, M & M Tank Lines, Inc., a corporation (hereafter M & M) seeks authority to purchase a

portion of Certificate No. C-339 from Service Transportation Corporation, a corporation, (hereinafter SERVICE), which portion of said certificate authorizes transportation of liquid asphalt in bulk in tank trucks, over irregular routes, between points and places throughout the State of North Carolina. Said authority being more particularly described in Exhibit "B" hereto attached and incorporated herein by reference.

The matter was duly set for hearing at the time and place shown in the caption and notice was duly given under the Commission's 5-day protest provision and published in the Commission's Calendar of Hearings, dated September 10, 1968.

Protest was duly filed in apt time by the protesting carriers named in the caption.

At the conclusion of the hearing, the parties expressed a desire to file briefs and by agreement of counsel for all parties time for filing briefs was continued from time to time and briefs were finally filed on May 13, 1969.

In support of the application, applicant offered oral and documentary evidence tending to show that SERVICE is the owner and holder of Certificate No. C-339 and has been actively operating such authority; that there are no debts or claims against SERVICE of the nature described in G. S. 62-111; that the transfer would not unlawfully affect the service to the public by other franchised carriers; that the transfer is justified by the public convenience and necessity; that M & M has the equipment, experience, financial ability and is otherwise qualified to assume ownership of and operation of that portion of the authority sought to be transferred, and to perform the transportation service authorized therein. That applicant entered into a contract to sell that portion of said certificate, dated August 29, 1968, for the sum of $5,000.00, subject to the approval of this Commission.

Protestants offered evidence attempting to show that the authority which is the subject of the application has not been operated and is dormant and that the transfer of the same would in effect create a new authority to transport liquid asphalt in bulk, which new authority is not required by the public convenience and necessity and would deprive the protestants of business which they are authorized to handle. That SERVICE did not haul any shipments of asphalt in the years 1963, 1964, 1965 and 1966, hauled 4 or 5 shipments during 1967 and approximately 25 to 30 loads during 1968; that SERVICE owns no equipment for the transportation of liquid asphalt in bulk and its transportation of such commodity was performed by leased equipment and that the transfer involved is not justified by the public convenience and necessity and would unlawfully affect the service to the public by the protestants.

Based upon the application, and the testimony and exhibits offered into evidence at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That SERVICE is a duly organized corporation, with offices off U. S. 601, Box 51, Salisbury, North Carolina. SERVICE owns and holds Common Carrier Certificate No. C-339 issued by this Commission, which contains, inter alia, the authority sought to be transferred herein, which is more particularly described in Exhibit B hereto attached and incorporated herein by reference.

2. That M & M is the owner and holder of Common Carrier Certificate No. C-198 issued by this Commission and has interstate authority issued by the Interstate Commerce Commission. M & M is a substantial hauler of bulk products and has adequate equipment, experience, financial resources and is otherwise fit and able to perform the transportation service authorized by the authority sought to be purchased by it.

3. That SERVICE first acquired the authority sought to be transferred together with its petroleum authority when it was first certificated as a result of the 1947 Truck Act; that SERVICE has owned no equipment for handling asphalt since 1963 and actually hauled no asphalt during the years 1963, 1964, 1965 and 1966. During those years it did not actually solicit any asphalt business although it has remained a party to the asphalt tariff filed with this Commission. During those years, SERVICE was not tendered any shipments. That during the year 1967, SERVICE began soliciting asphalt shipments and hauled by means of leased equipment, 4 or 5 shipments during that season: that again during the year 1968, SERVICE solicited this business and received approximately 25 to 30 loads for shipment, the last shipment being within 10 days of the date of the hearing. These shipments were also made by use of leased equipment.

4. That the transfer of the operating authority, described herein is in the public interest, will not adversely affect the service to the public under said franchise, will not unlawfully affect the service to the public by other public utilities, and the purchaser, M & M, is fit, willing and able to perform the service to the public under said franchise and that SERVICE under said franchise has been continuously offered to the public up to the time of the filing of said application, and that approval of the transfer is justified by the public convenience and necessity and the transfer should be approved.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

The protestants principal contention, briefly stated, is that the authority herein involved will be more actively operated by the purchaser (M & M) than it has been in the past by the present owner, SERVICE, and that being the case the approval of the transfer should not be granted as it has not been shown to be justified by the public convenience and necessity and it will adversely affect the business of the protesting carriers. Protestants further contend that the authority should be declared to be dormant due to the fact that it was not operated at all during 1963, 1964, 1965 and 1966 and only 4 or 5 loads were handled in 1967 and 25 or 30 in 1968.

The Commission cannot construe G.S. 62-111 nor G.S. 62-112 so as to prevent the transfer on the grounds contended or to declare the authority dormant. Protestants cite in support of its contentions the decision in Docket No. T-1331, Application of Parnell Transfer, Inc. It should be pointed out in that case, however, the record disclosed absolutely no exercise of the authority sought to be transferred up to the time of the filing of the application. Such is not the case here. We might point out that in a subsequent case, Docket No. T-1012, Sub 3, the same applicant, Parnell, was permitted to transfer the authority involved, after showing that the authority had been exercised and revived between the time of the Order in Docket No. 1331 and the subsequent hearing in Docket No. T-1012, Sub 3.

Protestants seem to contend in their brief that the Commission should adopt a comparative rule and give weight as to how much and to what extent the authority sought to be transferred has been exercised before deciding that the transfer is jusitified by the public convenience and necessity and is in the public interest as required by G.S. 62-111. Such a ruling by the Commission would, we feel, be entirely too vague and indefinite to set forth any constructive guide lines in this field. We cannot say, as protestants would seem to contend, that the hauling of 25 to 30 loads of asphalt during an asphalt shipping season is not sufficient activity to show that the transfer of the authority is not in the public interest nor justified by the public convenience and necessity. Protestants also ask the Commission to give weight to the fact that SERVICE has no equipment to service the authority sought to be transferred. It is a well known fact that many carriers operate by the use of leased equipment and, in fact, it appears of record that one of the protestants does not own its own equipment.

We sympathize with the protestants' contention that the transferee, M & M will more actively operate the authority sought to be transferred and will be more competitive with the business of the protestants than the present owner, SERVICE has been. This, however, is no legal basis for denial of the request for transfer of authority. We cannot construe that this application requires the same burden of

proof as is required in an application for new authority where the applicant must show that the public convenience and necessity requires the operation. This burden was borne and carried when the motor freight carrier authority was first issued and the Statute (G.S. 62-111) is satisfied by a showing that the authority is being actively exercised in satisfaction of the public need and has not been abandoned nor declared dormant.

It appears that the applicant has borne the burden of proof as required by law and the proposed sale and transfer should be approved.

IT IS, THEREFORE, ORDERED:

1. That the application filed in this docket be and it is hereby approved and the applicant, Service Transportation Corporation, is hereby permitted to sell that portion of the authority contained in Common Carrier Certificate No. C-339 as set out on Exhibit B hereto attached to M & M Tank Lines, Inc., and M & M Tank Lines, Inc. is hereby authorized to purchase and operate said authority under that portion of said certificate.

2. That the applicant, M & M Tank Lines, Inc., is hereby granted 30 days from the date of this Order to complete its transaction with Service Transportation Corporation, to file with this Commission its list of equipment, schedule of minimum rates, evidence of financial security for the protection of the traveling and shipping public and otherwise comply with all rules and regulations of this Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-139 SUB 3

M & M Tank Lines, Inc.
P. O. Box 4174, North Station
Winston-Salem, North Carolina

EXHIBIT B

Irregular Route Common Carrier Authority

"(2) Transportation of liquid asphalt in bulk in tank trucks over irregular routes, between points and places throughout the State of North Carolina

DOCKET NO. T-681, SUB 30

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Transfer of Stock from the Stockholders of Helms Motor Express, Inc., to McRae Industries, Inc., a North Carolina Corporation	) ORDER APPROVING) SALE AND TRANSFER) OF STOCK

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on August 29, 1969, at 9:30 A.M.

BEFORE: Chairman H. T. Westcott, Presiding, and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicants:

J. Ruffin Bailey
Bailey, Dixon, Wooten & McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Ruffin Building
Raleigh, North Carolina

No Protestants

WOOTEN, COMMISSIONER: On August 8, 1969, application was filed with this Commission, seeking approval of transfer of stock, by McRae Industries, Inc., P. O. Box 129, Mount Gilead, North Carolina, (hereinafter referred to as McRae) and J. R. Helderman, R. D. Austin, A. D. Burton, J. H. Dickson, Individuals, and Service Distributing Co., Inc. Said transfer as proposed would be from the present stockholders of Helms Motor Express, Inc., (hereinafter referred to as Helms) (i.e., J. R. Helderman, R. D. Austin, A. D. Burton, J. H. Dickson, and Service Distributing Co.) to McRae in exchange for stock of McRae in accord with Contract and Trust Agreement attached to said application. The application is for approval of the transfer of all outstanding shares of Class B Common Stock in Helms by the owners thereof to McRae.

Hearing was scheduled on the Petition for Friday, August 29, 1969, at 9:30 A.M., and notice of said hearing was given in a Supplement to Calendar of Hearings issued on August 4, 1969, by the Commission.

The notice of hearing provided that protests to the application should be filed with the Commission in accordance with Rule R1-11 on or before Monday, August 25, 1969, and no protest was filed within the time so provided, nor had protest been filed by the time the matter came on for hearing, and no protestants were present at said hearing.

In this docket, the applicants seek approval of the transfer of all of the Class B Common Stock of Helms from J. R. Helderman, R. D. Austin, A. D. Burton, J. H. Dickson, Individuals, and Service Distributing Co., Inc., to McRae, P. O. Box 129, Mount Gilead, North Carolina. The applicants introduced into evidence all of the exhibits attached to their application as filed on August 8, 1969, and offered the testimony of B. J. McRae and Richard D. Austin. No evidence was offered in protest or by the Commission's staff.

Based on the Commission's records, of which it takes judicial notice, the verified Petition, treated as an affidavit, and documentary evidence introduced, the Commission makes the following

FINDINGS OF FACT

1. That Helms is a corporation duly organized and existing according to the laws of the State of North Carolina, with its principal place of business and office located in Albemarle, North Carolina; that it is the holder of Certificate No. C-3 issued by this Commission, and is actively engaged in operating thereunder; that all of the outstanding Class B Common Stock of Helms is owned by Service Distributing Co., Inc., and four (4) Individuals, J. R. Helderman, R. D. Austin, A. D. Burton, and J. H. Dickson.

2. That McRae is a duly organized and existing North Carolina corporation, with its principal office and place of business in Mount Gilead, North Carolina, and is actively engaged in the business of manufacturing combat boots under government contract; and that said McRae has the corporate authority to acquire the stock for which approval is sought here.

3. That the applicants here propose to change control of a franchised motor common carrier corporation to be brought about by a transfer of stock or trade of stock in Helms by the stockholders of said Helms for stock in McRae and amounts to a broader based ownership of said motor common carrier corporation, and that this is not a transfer of the franchise.

4. That the Petitioners in this case, and all of them, entered into a contract on July 17, 1969, agreeing to transfer all of their Class B Common Stock in Helms to McRae in exchange for five (5) common shares of McRae for each

share of Helms; that simultaneously with the execution of the above agreement, the parties in this case executed a Trust Arrangement and Agreement providing the method of such transfers.

5. That there are Class A Common Shares of Helms outstanding which are not affected by the proposed transfer in this case, and the acquisition of all the Class B Shares of Helms by McRae, for which approval is here sought, will vest McRae with ownership of more than eighty per cent (80%) of the total number of outstanding shares of Helms, including both Classes.

6. That the motor common carrier operation carried on by Helms is in grave economic condition, and it appears that Helms, as an entity, will not be able to continue its operations and will face extinction on account of its economic conditions which imperil its very existence; and that McRae has agreed and bound itself to advance within thirty (30) days to Helms a sum of $50,000.00 (on loan), which should be of benefit in alleviating to some extent the economic conditions and peril of Helms.

7. That there are outstanding claims for loss and damage as of June 30, 1969, against Helms for $96,850.52, of which amount $16,909.54 is due and payable by connecting lines; that McRae has committed itself to dedicate at least eighty-five per cent (85%) of its $50,000.00 loan to the settlement of outstanding claims.

8. That Helms has past due obligations in the amount of $65,089.39 for interline freight to other motor common carriers and that there is due and payable to Helms $49,393.69 on interline freight by such other motor common carriers.

9. That the outstanding claims against Helms for loss and damage, and the past due obligations of Helms for interline freight to other motor common carriers, are not current, as the same should and must be.

10. That Helms is unable, on its own and in its own name, to secure the necessary additional funds to continue its operation under its franchise; and that the transfer here proposed is a reasonable method of obtaining $50,000.00 to aid Helms in its imperiled economic condition, and the receipt of the same is in the public interest.

11. That the sale by said stockholders of all the Class B Stock of Helms to McRae will transfer control of Helms to McRae, and will probably make for better and more efficient service; that said transfer will improve the economic conditions of Helms and will afford a broader based ownership of said corporation; that said transfer will not be against public interest but will be justified by the public convenience and necessity.

CONCLUSIONS

The provision of the statute relating to the sale of stock of the kind involved here (which is in effect, and will result in, a change of control of the company) is contained in G.S. 62-111(a) which reads as follows:

> "(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."

General Statutes 62-111(b) and (c) have no application in the instant case, in that subsection (b) is applicable to transfers involving motor carriers of passengers, and subsection (c) deals with the "sale of a franchise for a motor carrier of property", and does not deal with the transfer as sought in this case under the provisions of subsection (a), which is a change of control through stock transfer.

We further conclude in accord with G.S. 62-111(a) that before the change of control of a franchise through stock transfer or otherwise or any merger or combination affecting any public utility, application for approval of the same must be filed with this Commission, which application must be approved by this Commission if justified by the public convenience and necessity.

We also conclude that any approval of transfer in this case should be conditioned upon the advance of $50,000.00 (on loan) by McRae to Helms within thirty (30) days from this date and upon the further condition that eighty-five per cent (85%) of said advance (on loan) shall be used by Helms in the retirement of outstanding claims for loss and damage in addition to any portion of the same which is due and payable to Helms from other motor common carrier connecting lines.

It is apparent from the imperiled economic condition of Helms, that substantial improvement in its economic condition, management and operations must become a reality if it is to continue service to the public under its franchise, and to that end, we conclude that regular reports must be furnished to this Commission by Helms in order that we can supervise the operations to the end that the interests of the using and consuming public might be better protected.

Applying the facts found, as above set out, to the applicable provisions of law, the Commission concludes that the acquisition of the stock of Helms by McRae is justified by public convenience and necessity, and that the owners of the stock of Helms should be authorized to sell, and McRae should be authorized to acquire said stock in accord with the terms of the agreement hereinabove referred to, and upon the conditions herein specified.

Based upon the foregoing findings and conclusions, the Commission enters the following

IT IS, THEREFORE, ORDERED, That the sale and transfer of all of the Class B Common Stock of Helms by the owners thereof, and the acquisition by McRae of all of the Class B Common Stock of Helms, the present holder of Certificate No. C-3, issued by this Commission, be, and the same is hereby approved, specifically conditioned upon the advance of $50,000.00 (on loan) by McRae to Helms within thirty (30) days from this date and upon the further condition that eighty-five per cent (85%) of said advance (on loan) shall be used by Helms in the retirement of outstanding claims for loss and damage in addition to any portion of the same which is due and payable to Helms from other motor common carrier connecting lines.

IT IS FURTHER ORDERED, That Helms shall file with the Commission a monthly comparative financial statement of income and a balance sheet, reflecting operating status as of current month and as of December 31 of the prior calendar year. Such monthly report shall also list as specific items, (1) the loss and damage claims account; and (2) the interline claims and receivables. A supplemental schedule shall be attached setting forth the status of delinquency of the claims account, reflecting the number of claims and dollar amounts involved, and the same shall be based on a quarterly basis ending with the month of reporting and three like quarters preceding and a total sum of the number of claims and dollar amounts of those over one year delinquency.

IT IS FURTHER ORDERED, That, upon the consummation of said sale, the same shall be reported to this Commission in a report showing the final terms and the date on which the transfer was made.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-23, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Transfer of Certificate No. C-225 of Leon Doc Hyder by Estate of Leon Doc Hyder as Substitute Transferor to Marie Rhodes Hyder, Hyder Street, Hendersonville, North Carolina, with Metro Express Delivery, Inc., as Additional Party Transferee) ORDER TRANSFERRING CERTIFICATE

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on June 10, 1969, at 10:00 o'clock a.m.

BEFORE: Commissioners John W. McDevitt (Presiding), M. Alexander Biggs, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Francis O. Clarkson, Jr.
Craighill, Randleman & Clarkson
Attorneys at Law
914 American Building
Charlotte, North Carolina 28211

Reginald S. Hamel
Hamel & Cannon
Attorneys at Law
Suite 7, Equity Building
Charlotte, North Carolina 28202

Monroe M. Redden, Sr.
Redden, Redden & Redden
Attorneys at Law
P. O. Box 587, Hendersonville, North Carolina

For the Protestants:

Robert R. Williams, Jr.
Williams, Morris & Golding
P. O. Box 7316, Asheville, North Carolina
For: Blue Ridge Trucking Company

Wright T. Dixon, Jr.
Bailey, Dixon & Wooten
Attorneys at Law
1012 Insurance Building
Raleigh, North Carolina
For: Fredrickson Motor Express Corporation

BY THE COMMISSION: The joint application for the sale and transfer of Common Carrier Certificate No. C-225 was filed on August 3, 1967, by Leon Doc Hyder (Transferor) and Marie

Rhodes Hyder (Transferee). Certificate No. C-225 contains the following operating authority:

Transportation of general commodities except those requiring special equipment, over irregular routes, between points and places within the following counties: Cherokee, Swain, Haywood, Transylvania, Madison, Buncombe, Henderson, McDowell, Burke, Caldwell, Catawba, Gaston, Mecklenburg, Forsyth, Davidson, Guilford and Cumberland.

Transportation of Group 22, Other Specific Commodities, Frozen Foods and Dairy Products, over irregular routes from all points and places to all points and places within the whole area of the State of North Carolina.

Notice of the application for transfer was published in the Calendar of Hearings for motor carriers of property on August 15, 1967, setting the hearing for September 12, 1967. On August 21, 1967, prior to action on the application, the transferor Leon Dock Hyder died.

The time for filing protests, as set forth in the Truck Calendar, expired on September 7, 1967, with no protests having been filed. Determination of the application was continued from time to time pending appropriate notice or pleadings from the Executor or Administrator of the estate of the transferor Leon Doc Hyder as to the position of the transferor's estate regarding the pending application.

Upon request in writing from the transferee, Marie Rhodes Hyder, received May 13, 1968, for authority to suspend operation, the transferee was advised by letter of the Commission Attorney that the authority was suspended under an outstanding insurance proceeding instituted prior to the transferor's death and that additional authorization for suspension for operation was not required. On January 28, 1969, the Commission entered an Order authorizing suspension of operation on a continued basis under G.S. 62-112(b)(5) and G.S. 62-112(c) in consideration of the death of the transferor Leon Doc Hyder. On March 5, 1969, the estate of the transferor Leon Doc Hyder filed a Motion to be substituted as transferor and to proceed with the transfer of Certificate No. C-225 to the transferee Marie Rhodes Hyder.

On March 5, 1969, Motion to allow joinder as additional party transferee was filed by Metro Express Delivery, Inc., setting forth agreement with the original transferee Marie Rhodes Hyder for acquisition of the Certificate upon transfer from the deceased's estate.

On March 20, 1969, the Commission republished notice of rescheduled hearing in the Commission's Calendar of Truck Hearings to be heard on June 10, 1969.

On April 3, 1969, protest was filed to the transfer by Frederickson Motor Express Corporation and on April 8, 1969,

protest was filed by Blue Ridge Trucking Company, alleging that the protestants were engaged in the transportation of general commodities within the territory authorized by Certificate No. C-225; that the subject authority is dormant; that the proposed action is contrary to the public interest; that the same is contrary to and not justified by public convenience and necessity and contrary to the transportation policy declared by the State of North Carolina; that the proposed action would create new service and would adversely affect the service rendered to the public by the protestants and would deprive them of opportunity to transport commodities they are authorized to transport; and that the transfer would result in an unnecessary duplication of service.

Public hearing was held as scheduled in accordance with the notice in the Commission's Calendar of Hearings on June 10, 1969.

The transferor offered the testimony of the transferee Marie Rhodes Hyder, C. H. Cooley for the additional transferee Metro Express Delivery, Inc., and testimony of three shipper witnesses.

The Commission granted the applicants' Motion to substitute the estate of Leon Doc Hyder as transferor and to allow the joinder of Metro Express Delivery, Inc. as an additional party transferee.

The applicants' witness, the transferee Mrs. Marie Rhodes Hyder, testified that she is the widow of Leon Doc Hyder who died on August 21, 1967; that she had helped him in his business and was familiar with all of his operations; that her husband, Leon Doc Hyder, was very sick and was hospitalized in the middle of 1966 and was in and out of the hospital in 1966 and 1967 with serious illness, and during the latter part of 1966, and in 1967 until his death, he was in a coma several times, as many as two weeks at a time; that her husband had five trucks in 1966 and they still have most of them; they were semi-tractors and trailers and refrigerated vans; that her husband's physical condition got worse sometime prior to his death in 1967; that he then signed an agreement and application to transfer his motor carrier authority to his wife, the witness Mrs. Hyder, now widow and transferee in this proceeding; that due to illness he did not have good records on the hauling performed in 1966 and 1967, but they hauled refrigerated produce and freight and some chemicals; that she has operated a pick-up truck and done some hauling herself; that they made trips for Select Foods in Hendersonville; that if the application is granted, she will receive directly the full value of her contract with Metro Express Delivery, Inc. as additional transferee; that ill health was the reason her husband did not operate fully and keep all insurance and other records up-to-date immediately prior to his death and that any operation not performed was due to his sickness.

The witness, Carlos H. Cooley, of Metro Express Delivery, Inc. testified that he was President and sole owner of the additional transferee Metro Express Delivery, Inc. and had been owner and operator of an exempt motor operation for ten years and had been employed in the trucking business as driver, terminal manager, and central dispatcher for ten years prior to that time; that Metro has 16 employees now performing trucking service in the Charlotte area for 100 or more companies and adequate equipment to perform such service, with gross revenues amounting to $182,000 in 1968.

Additional witnesses testified for the applicants: B. H. Lee, Vice President and General Manager of Southern Warehouse and Distributing Corporation; W. McKee Biggers, Chief of Sales and Traffic Operations for Charlotte Pipe and Foundry; and Joe Bennett, Manager of Warehouse and Transportation for Whirlpool Corporation. Each testified to the ability of Metro Express Delivery, Inc. to perform service and as to their dissatisfaction with existing intrastate carriers in the subject area.

The protestant Frederickson Motor Express Corporation offered the testimony of its Assistant Traffic Manager, Loy J. Foster, intending to show that Frederickson was operating its motor carrier authority in Western North Carolina and Piedmont North Carolina in the same general territory as the authority in Certificate No. C-225 and that there was no need for additional operating authority; that the transfer of the authority of Leon Doc Hyder to his widow, Mrs. Hyder, and the additional transferee Metro Express Delivery, Inc. would adversely affect Frederickson; and that the operating authority of Leon Doc Hyder had not been operated during the period immediately prior to the transfer. The protestants contended that the authority of Leon Doc Hyder had become dormant under G.S. 62-122.

Based upon the testimony of the witnesses, the exhibits, and the relevant records, the Commission makes the following

FINDINGS OF FACT

1. Transferor, Estate of Leon Doc Hyder as successor to the original transferor, Leon Doc Hyder, deceased, is the holder and owner by the decedent estate laws of North Carolina of North Carolina Common Carrier Certificate No. C-225 and lawfully stands in the place of the original transferor Leon Doc Hyder, deceased.

2. That the original transferor, Leon Doc Hyder, died on August 21, 1967, after filing the application herein, but prior to the determination by the Commission on the application; that for approximately one year prior to his death, said Leon Doc Hyder, deceased, was seriously ill and was disabled from conducting full motor carrier operations under said Certificate, but that said Leon Doc Hyder did own motor carrier equipment and held himself out to the public for operation of his motor carrier authority and maintained

insurance and rates on file up until June, 1967, and that through the assistance of his wife, Mrs. Marie Rhodes Hyder, the transferee herein, he operated his motor carrier authority to the full extent of his ability, giving regard to his disability from illness as contemplated under G.S. 62-112(c), and the Commission finds and so holds that said motor carrier authority was not dormant within the meaning of the Public Utilities Act at the time of Mr. Hyder's death on August 21, 1967.

3. That the death of Mr. Hyder, the transferor, on August 21, 1967, and the legal proceedings necessary for his Executor to qualify and substitute the estate of Leon Doc Hyder as transferor are legal and reasonable grounds for suspension of operations of the motor carrier authority of Leon Doc Hyder, deceased, and that the Order of the Commission entered on January 28, 1969, authorizing further suspension of operations, constituted grounds for continued suspension of operations of said authority up until the time of hearing and determination on this application, and the operating authority of transferor has not become dormant in operation of law since the death of Leon Doc Hyder on August 21, 1967.

4. There are no debts or claims against Leon Doc Hyder in the operation of his motor carrier authority of the nature described in G.S. 62-112 and any debts or claims outstanding against Leon Doc Hyder are now claims against the estate of Leon Doc Hyder and will be administered in accordance with law in satisfaction of said G.S. 62-112.

5. The transferee, Mrs. Leon Doc Hyder, is an individual who has been engaged in assisting her husband, Leon Doc Hyder, in the operation of his motor carrier business prior to his death, and while seriously ill and under disability from operation of his business, said Leon Doc Hyder filed application to transfer said authority to his wife, now his widow, the said transferee; that she is familiar with the rules and regulations of the Commission and is fit, willing, and able to engage in the transportation of commodities authorized in said Certificate; that the additional transferee Metro Express Delivery, Inc. is an exempt motor carrier in the commercial zone of Charlotte, North Carolina, with many years experience and is fit, willing, and able as additional transferee to engage in the transportation of the motor carrier authority under Certificate No. C-225; that the evidence of said transferees is that the original transferee Marie Rhodes Hyder has joined Metro Express Delivery, Inc. as additional transferee to accept the transfer of Certificate No. C-225 and has entered into a contract for said Metro Express Delivery, Inc. to stand as the substitute transferee in her stead.

6. That the transfer in this case recognizes the laws of estates and descent and distribution in North Carolina and is in the public interest in preserving the use of the public motor carrier operating authority temporarily

interrupted by the death of its owner, Leon Doc Hyder, and will not adversely affect the service to the public under the franchise and will not unlawfully affect the service by other public utilities.

CONCLUSION

The Commission concludes that the proposed sale and transfer is in the public interest in preserving for the public use motor carrier authority interrupted due to the disability through illness of the transferor Leon Doc Hyder and his subsequent death on August 21, 1967. The further interruption of the service due to Mr. Hyder's death and the qualification of his estate were recognizable disabilities and interruptions of service, and his widow, the transferee Mrs. Marie Rhodes Hyder, has taken all reasonable steps to notify the Commission of such interruption and has received proper authority to continue the suspension of operation by the estate pending the outcome of the transfer application filed by Mr. Hyder prior to his death.

The protestants contend that the interruptions in service or alleged lack of service prior to Mr. Hyder's death and subsequent to his death constitute dormancy under the provisions of G.S. 62-112 and that the transfer should be denied and the Certificate cancelled.

G.S. 62-112(b)(5) provides for suspension of certificates on grounds of dormancy "... save in the case of involuntary failure or suspension brought about by compulsion upon the franchise holder or lessee". The enactment of G.S. 62-112(c) in the 1967 General Assembly to be effective January 1, 1968, authorizes cancellation of a dormant certificate in a transfer application, but contains the following saving clause: "In determining whether such carrier has made reasonable efforts to perform service under said franchise the Commission may in its discretion give consideration to disabilities of the carrier including death of the owner and physical disabilities".

Thus, G.S. 62-112, as in effect on the filing of this application, allowed for involuntary suspension brought about by compulsion on the franchise holder and G.S. 62-112(c), effective January 1, 1968, authorized the Commission to consider disabilities of the carrier, including death of the owner and physical disabilities.

The Commission concludes that any interruption of service or lack of service by Leon Doc Hyder prior to his death or interruption during the time from his death to the hearing in this proceeding were caused by involuntary suspension brought about by compulsion of the franchise holder's disability from illness and subsequent death, and the Commission in its discretion concludes that the statute on dormancy contains exceptions for the specific situation in this proceeding relating to Mr. Hyder's illness and death. The Commission has entered Orders in this proceeding

authorizing suspension of operations and reaffirms its findings and conclusions and in its discretion holds that the interruptions being thus excused under the statute did not constitute dormancy.

IT IS, THEREFORE, ORDERED:

1. That the application in this docket be and the same is hereby approved and the transferor Leon Doc Hyder, deceased, through the estate of Leon Doc Hyder as substitute transferor, is authorized to sell and transfer the operating authority under Certificate No. C-225, and the transferees Marie Rhodes Hyder, widow of Leon Doc Hyder, and the additional transferee Metro Express Delivery, Inc., are authorized to purchase said Certificate, and the said additional transferee Metro Express Delivery, Inc. is authorized under contract with the first transferee Marie Rhodes Hyder, to substitute as the final transferee and to purchase and operate under the authority contained in North Carolina Certificate No. C-225 as more specifically described in Exhibit B attached hereto and made a part hereof.

2. That upon consummation of the sale and transfer herein authorized, Metro Express Delivery, Inc. shall be allowed 30 days from the date of this Order in which to consummate the transaction herein authorized in compliance with this Order, file the required tariffs, evidence of insurance, list of equipment, and otherwise comply with the rules and regulations affecting the operation of a motor common carrier under the jurisdiction of the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This 3rd day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. T-23 SUB 6 — Metro Express Delivery, Inc., Charlotte, North Carolina

EXHIBIT B — Irregular Route Common Carrier Authority

Transportation of general commodities except those requiring special equipment, over irregular routes, between points and places within the following counties: Cherokee, Swain, Haywood, Transylvania, Madison, Buncombe, Henderson, McDowell, Burke, Caldwell, Catawba, Gaston, Mecklenburg, Forsyth, Davidson, Guilford and Cumberland.

Transportation of Group 22, Other Specific Commodities, Frozen Foods and Dairy Products, over irregular routes from all points and places and to all points and places within the whole area of the State of North Carolina.

DOCKET NO. T-1196, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application for sale and transfer of Certificate No. C-85 from Helderman Trucking Company, Inc., Route 5, Lexington, North Carolina, to Northeastern Trucking Company, 2508 Starita Road, P. O. Box 1493, Charlotte, North Carolina) ORDER

HEARD IN: The Commission Hearing Room, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on February 26, 1969, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott and Commissioners Clawson L. Williams, Jr., and Marvin R. Wooten (presiding)

APPEARANCES:

For the Applicants:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina

No Protestants

WOOTEN, COMMISSIONER: By joint application filed with the Commission on September 10, 1968, Helderman Trucking Company, Inc. (Transferor), Route 5, Lexington, North Carolina, and Northeastern Trucking Company (Transferee), 2508 Starita Road, P. O. Box 1493, Charlotte, North Carolina, seek approval of the transfer from said Transferor to said Transferee of the operating rights contained in Certificate No. C-85. Said application was accompanied by a petition for temporary authority. After careful consideration of the filings and the facts contained therein, the Commission issued an order dated September 20, 1968, approving the temporary lease of authority as requested but specifically ordered that the approval of said lease agreement did not contemplate the tacking of existing authority of Northeastern to the authority of Helderman therein leased and such tacking was specifically prohibited.

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 Commission's Calendar of Hearings issued November 6, 1968. No protests were filed and no one appeared at the hearing in opposition to the application.

In support of the application filed in this case the applicants offered the following witnesses who testified in substance as indicated:

J. Clemo Glosson, of Route 5, Lexington, North Carolina, testified that he was the principal stockholder in Helderman Trucking Company, Inc., since September of 1967; that prior thereto he had operated Glosson Motor Lines; that at the present time he did not have any interest whatsoever in the said Glosson Motor Lines; that Helderman Trucking Company, Inc., is a North Carolina corporation; that he is the President and Treasurer of said Helderman Trucking Company, Inc.; that he operated Helderman Trucking Company, Inc., for about one year; that due to large financial losses, he proposed to sell the operating rights of Helderman Trucking Company, Inc., to Northeastern Trucking Company; that Helderman and Northeastern entered into a Sales Agreement which is on file with the Utilities Commission, for the sale and transfer of Helderman Trucking Company, Inc., and its operating rights from Helderman to Northeastern; that pending the approval of said transfer and sale, Helderman Trucking Company, Inc., a portion of its equipment, and all of its rights were leased to Northeastern Trucking Company who has been operating the same under TEMPORARY AUTHORITY granted by the North Carolina Utilities Commission; that Helderman Trucking Company, Inc., during the time that he owned the same, did not operate that portion of their authority commonly called "household goods authority" and set out in Section (2) as shown on Exhibit 2 of the applicants as filed in this matter; that said "household goods authority" has not been operated by Northeastern Trucking Company; that Northeastern Trucking Company has been operating Helderman's rights since October 9, 1968; that Helderman Trucking Company, Inc., leased a portion of their equipment to Northeastern and sold a portion of the same at that time; that Northeastern has complied with all the terms and conditions of the Lease Agreement; that Helderman Trucking Company, Inc., was not indebted to anyone except himself, J. C. Glosson; that Helderman was indebted to him in the sum of about $200,000.00 and that he would lose approximately $100,000.00 if this sale is consummated; that his desire to sell Helderman Trucking Company, Inc., and its operating rights is due to the financial loss which he has sustained in the operation of same; that all other debts contemplated by G.S. 62-121.26 have been paid and that such debts are not outstanding; that all statutory debts and claims have been paid by Helderman and that he did not purchase Helderman Trucking Company, Inc., with the view towards selling the same for a profit but did in fact suffer a financial loss on account of the same.

John F. Guignard, of Charlotte, North Carolina, testified that he is a stockholder and President of Northeastern Trucking Company and Guignard Trucking Company, both North Carolina corporations; that he and his brother own fifty per cent (50%) of the stock of Northeastern Trucking Company; that he owns approximately sixty-five per cent (65%) of the stock of Guignard Trucking Company while his brother owns thirty-five per cent (35%); that Guignard Trucking Company is primarily a holding company which furnishes equipment for Northeastern; that both Guignard Trucking Company and Northeastern Trucking Company are financially solvent, and are in a position to comply financially with the provisions of the sale and purchase contract in this case; that they have been operating, under TEMPORARY AUTHORITY, the rights of Helderman Trucking Company, Inc., as approved by the Commission; that the intrastate authority held by Helderman Trucking Company, Inc., as set forth in Exhibit 2 has been operated under lease by them since October 9, 1968, except for Section (2) "household goods authority", and that his company has not operated under that section of the Helderman Trucking Company, Inc., authority; that the authority granted by the North Carolina Utilities Commission for intrastate transportation under Sections (1) and (3) as set forth on Exhibit 2 of the operating authority of Helderman Trucking Company, Inc., is contiguous with and complementary of the authority held by Northeastern Trucking Company and that the operation of the authorities of both trucking companies together would be an improvement in the transportation service to the public since the authorities are interlocking, overlapping and complementary, provided the Commission should grant authority to tack the Helderman authority to the authority presently held by Northeastern Trucking Company in Certificate No. C-833; that his company has sufficient terminals and equipment when added to the facilities of Helderman to adequately and properly operate said authority; that Northeastern Trucking Company is willing, fit and able to operate the authority now held by Helderman Trucking Company, Inc.; that in his opinion the transfer of the operating authority herein requested is justified by the public convenience and necessity; and that Northeastern Trucking Company has the facilities, the business experience, the financial ability, and is otherwise qualified to perform the transportation service in a satisfactory manner.

William J. Shields, of Charlotte, North Carolina, who is employed by Humble Oil and Refining Company in their Traffic Division, testified along with Gordon Chesson, of Plymouth, North Carolina, who is employed as Traffic Manager for Weyerhaeuser Company, that their respective companies have a need for the service contemplated by the authority of Helderman Trucking Company, Inc.; that their respective companies have previously used Northeastern Trucking Company with satisfactory service and results; that in their opinion there is a public need for a continuation of this authority; and that they recommend the approval of this sale and transfer as being in the public interest.

The applicants stipulated that that part of the Helderman authority sought to be transferred pertaining to the transportation of personal effects and property, which is Part (2), has not been operated for many years and that in this application the transferee did not seek to buy such authority and that the Commission could take such action as to that part of the authority as it saw fit and that that portion of the authority be excluded from the purchase and transfer transaction wherein approval is here sought.

Upon consideration of the application, the testimony of record and the evidence adduced, the Commission makes the following

FINDINGS OF FACT

1. That the sale and transfer for which approval is sought in this case is justified by the public convenience and necessity, except that portion of said authority under Group 18, "Household Goods Authority", which is found to be dormant.

2. That the applicant transferee is fit, willing and able to properly perform the proposed service.

3. That the applicant transferee is solvent, financially able and has the facilities, the business experience, and is otherwise qualified to perform the transportation service in this case in a satisfactory manner.

4. That the tacking and joining of the authority herein sought to be transferred to the authority already held by the transferee is justified and required by the public convenience and necessity.

CONCLUSIONS

Based upon the uncontradicted evidence of record and the facts found to exist, it is the conclusion of the Commission that the applicants have satisfied the burden of proof required by statute and that the approval of the sale and transfer of the authority sought should be granted, except that portion of said authority under Group 18, "Household Goods Authority", which is dormant.

IT IS, THEREFORE, ORDERED: That the petition for the sale of Helderman Trucking Company, Inc., to Northeastern Trucking Company in Docket No. T-1196, Sub 3, be, and the same is, hereby approved to the extent that the same is set forth in Exhibit B attached hereto, thereby excluding Group 18, "Household Goods Authority."

IT IS FURTHER ORDERED: That Applicant Helderman 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-85, with all rights, conditions and privileges thereunto pertaining, except that portion of said authority defined as Group 18, "Household Goods Authority"; said authority being more fully described in Exhibit B hereto attached and made a part hereof.

IT IS FURTHER ORDERED: That Applicant Helderman Trucking Company, Inc., shall forthwith forward to the Chief Clerk of this Commission its Certificate No. C-85 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 the Commission, this order shall constitute all necessary authority for sale and transfer and for Northeastern Trucking Company's qualification and operation under said authority.

IT IS FURTHER ORDERED: That Northeastern Trucking Company is hereby granted permission and authority to tack and join the authority, the acquisition of which is herein approved, to authority presently held by Northeastern Trucking Company in Certificate No. C-833.

IT IS FURTHER ORDERED: That the authority held by Helderman Trucking Company, Inc., under its Certificate No. C-85 as the same applies to Group 18, "Household Goods Authority", be, and the same is, hereby cancelled as being dormant.

IT IS FURTHER ORDERED: 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 lists of equipment used to be used in the operation, and shall otherwise comply with all laws and regulations governing the operation of common carriers in this State.

IT IS FURTHER ORDERED: 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 March, 1969.

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

DOCKET NO. T-1196
SUB 3

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 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.

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: Truck load lots only.

DOCKET NO. T-1444

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application for the Approval of the Transfer of Contract Carrier Permit No. P-46 from D. W. Parrish, t/a Parrish Oil Company to John William Parrish, Jr., t/a Parrish Transport Company) ORDER APPROVING TRANSFER

McDEVITT, COMMISSIONER: By joint application filed with the Commission on November 12, 1968, D. W. Parrish, t/a Parrish Oil Company, seeks to transfer to John William Parrish, Jr., t/a Parrish Transport Company, Contract Carrier Permit No. P-46, as follows:

"Transportation of Petroleum and Petroleum Products in bulk, in tank trucks, under individual bilateral contracts with particular shippers, over irregular routes, from existing originating terminals at or near Wilmington, Morehead City, River Terminal, Thrift, Friendship, Salisbury and Selma to points and places in the Counties of Johnston and Wake."

Notice of the filing of the application and public hearing scheduled on March 18, 1969, was published in the Calendar of Hearings issued on February 21, 1969, with provision that if no protests were filed by 5:00 P.M., March 12, 1969, the application would be decided on the basis of the documentary evidence and records of the Commission without public hearing. No protests were filed.

Based upon the uncontroverted verified pleadings in the application, exhibits, and relevant records, the Commission makes the following

FINDINGS OF FACT

1. Transferor, D. W. Parrish, t/a Parrish Oil Company, is the owner of Contract Carrier Permit No. P-46 and is actively engaged in the operation of the transportation rights to be transferred.

2. There are no debts or claims against Transferor for taxes due the State of North Carolina, for wages due employees, for loss or damage of goods, for overcharges, or for any other items defined in G.S. 62-111.

3. Transferee, John William Parrish, Jr., has managed the business to be acquired for fifteen years and has thereby demonstrated his fitness and ability to perform the required service. Transferee's balance sheet reflects net

worth of $42,500, total assets of $55,000 and liabilities of $12,500.

4. Agreement between the parties is based upon consideration of $3,000.

5. Transferor's total gross operating revenues for August, September and October of 1968 was $2,937.45 for 4,420 miles traveled.

CONCLUSIONS

Transferee, James William Parrish, Jr., is experienced in operating and managing the business to be acquired and is fit and able financially and otherwise to perform the required service in accordance with applicable laws and regulations. We conclude that it will be in the public interest to authorize the proposed transfer of operating authority.

IT IS THEREFORE ORDERED that the transfer and sale of Contract Carrier Permit No. P-46, together with the operating rights described in Exhibit A hereto attached and made a part hereof, from D. W. Parrish, t/a Parrish Oil Company to John William Parrish, Jr., t/a Parrish Transport Company, be, and the same is, hereby approved.

IT IS FURTHER ORDERED that Parrish Transport Company file with the Commission appropriate evidence of insurance, tariffs of rates and charges, lists of equipment, and otherwise comply with the rules and regulations of the Commission and begin operations under the authority herein acquired within thirty (30) days from the date this order issues.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of March, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1444

Parrish Transport Company
John William Parrish, Jr., t/a
U. S. Hwy 301
Benson, North Carolina

Contract Carrier Authority

EXHIBIT A

Transportation of petroleum and petroleum products in bulk, in tank trucks, under individual bilateral contracts with particular shippers, over irregular routes, from existing originating terminals at or near Wilmington, Morehead City, River

Terminal, Thrift, Friendship, Salisbury, and Selma to points and places in the Counties of Johnston and Wake.

DOCKET NO. T-1455

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Joint Application for the Sale and Transfer of Certificate C-46 from Nixon Brothers Transfer, P. O. Box 43, Smithfield, North Carolina, to T. J. Pendergrass, Route 1, Box 52, Henderson, North Carolina) ORDER APPROVING SALE AND TRANSFER

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on May 2, 1969

BEFORE: Commissioners John W. McDevitt, Presiding, Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Vaughan S. Winborne
1108 Capitol Club Building
Raleigh, North Carolina 27601

For the Protestants:

Thomas W. Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
For: M & M Tank Lines, Inc.
East Coast Transport Co., Inc.
Kenan Transport Company
H & P Transit Co.
Petroleum Transportation, Inc.
Tidewater Transit Company, Inc.
O'Boyle Tank Lines, Inc.

McDEVITT, COMMISSIONER: The joint application for the Sale and Transfer of Common Carrier Certificate C-46 was filed on February 25, 1969, by Nixon Brothers Transfer (Transferor) and T. J. Pendergrass (Transferee). Certificate C-46 contains the following operating authority:

"(1) Transportation of cotton in bales and feeds to and from points within 300 miles of Smithfield.

"(2) Transportation of unmanufactured tobacco, lumber, fertilizer and brick from Johnston County to points in North Carolina within 300 miles of Smithfield, and

from points in North Carolina within 300 miles of Smithfield to Johnston County, that is to say, movements of unmanufactured tobacco, lumber, fertilizer and brick shall either originate or terminate in Johnston County.

"(3) Transportation of liquid petroleum products in bulk over irregular routes from existing originating terminals at or near Wilmington, Morehead City, River Terminal, Thrift, Friendship, Selma, Apex, Fayetteville and Salisbury to points and places in Johnston County.

"(4) 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 (3)."

Protest was filed on April 22, 1969, by M & M Tank Lines, Inc., East Coast Transport Co., Inc., Kenan Transport Company, H & P Transit Co., Petroleum Transportation, Inc., Tidewater Transit Company, Inc., and O'Boyle Tank Lines, Inc., alleging that the protestants are engaged in the transportation of liquid petroleum products in bulk and liquefied petroleum gas; that the subject authority is dormant; that the proposed action would create a new service; that the proposed action is contrary to the public interest; that the tranferor is not fit nor able to perform the service particularly as to the transportation of liquid petroleum and liquefied petroleum gas; that granting of the application would adversely affect the service of the public rendered by the Protestants and would deprive them of opportunities to transport commodities they are authorized to transport; and that the transfer would result in an unnecessary duplication of service.

Public hearing was scheduled and held as captioned in accordance with Commission requirements.

Transferor, Nixon Brothers Transfer, offered the testimony of Mark Allen Nixon, who testified that the company was owned by the brothers, Mark Allen Nixon, Isham Nixon (deceased) and William E. Nixon as a partnership; that Isham Nixon died October 29, 1968; that the business was operated by the surviving members of the partnership until operations were suspended on January 2, 1969, in accordance with an order from the Utilities Commission; that during the year 1968, Transferor transported cotton in bales, feeds, unmanufactured tobacco, lumber, fertilizer and brick for specific shippers within its territory; that Transferor transported petroleum for Stancil Oil Company in Selma, Lee Oil Company and Smithfield Oil Company of Smithfield, using its own tractor and a tanker trailer which was leased from Smithfield Oil Company; that Transferor has complied with Commission requirements as to the filing of tariffs, equipment lists and insurance coverage; that Transferor has entered into a contract to sell and transfer the rights

contained in Certificate C-46 to T. J. Pendergrass for $2,000.00, and regards the joint application, signed by both parties, as the contract of sale; that suspension of operations was required by the physical inability of the surviving partners to operate the business; that gross receipts from transportation during the year 1968 were approximately $25,000.00; that Transferor has never transported liquid petroleum gas; that the partnership operated under an oral agreement; that William E. Nixon and Mrs. Gertrude Nixon, wife of the deceased Isham Nixon, authorized the witness to handle the proposed sale and transfer; and that the sale and transfer does not involve equipment.

The testimony of witness, T. J. Pendergrass, Transferee, tends to show that he has engaged in the trucking business under ICC Certificate No. MC-127810 authorizing transportation of fertilizer and fertilizer materials from certain points in Virginia to certain points in North Carolina; that he owns and operates seven tractors and 18 trailers; that he transports frozen foods under lease between Florida and North Carolina; that he is familiar with the safety rules and regulations of the ICC and the North Carolina Utilities Commission; that his net worth at April 21, 1969, was $13,715.25; that he has entered into a contract to purchase Certificate C-46 for $2,000.00; that he has been engaged in the trucking business in North Carolina since 1959 under lease to various truckers; that gross revenue from transportation was $92,000.00 during 1968 and that seven employees are engaged in the operation of his business.

The Protestants did not offer testimony of witnesses but were allowed to introduce into evidence by reference their operating certificates, latest financial statements, and equipment lists.

Based upon the testimony of the witnesses, exhibits, and relevant records, the Commission makes the following

FINDINGS OF FACT

1. Transferor, Nixon Brothers Transfer, is the holder and owner of North Carolina Common Carrier Certificate C-46 and actively engaged in the transportation of commodities thereunder, with the exception of liquefied petroleum gas, until operations were suspended by order of the Commission dated January 2, 1969. Transferor has never transported liquefied petroleum gas.

2. There are no debts or claims against Nixon Brothers Transfer of which transferee has any knowledge or notice of taxes, wages due, unremitted C.O.D. collections, loss of or damage to goods, overcharges, or interline accounts as defined in G.S. 62-111(c).

3. Transferee, T. J. Pendergrass an individual doing business as T. J. Pendergrass, is an irregular route common carrier engaged in transportation of interstate property between points in Virginia and North Carolina under Interstate Commerce Certificate No. MC-127810, is familiar with the safety rules and regulations of this Commission and is fit, willing, and able financially and otherwise to engage in the transportation of commodities between points and places in North Carolina as enumerated in Exhibit B attached hereto.

CONCLUSIONS

The Commission concludes that the proposed sale and transfer is in the public interest, will not adversely affect the service to the public under said franchise, will not unlawfully affect the service to the public by other public utilities and that transferee, T. J. Pendergrass is fit, willing and able to perform the service required. The authority contained in Certificate C-46 for transportation of liquefied petroleum gas, never having been exercised, is dormant and should be canceled.

IT IS THEREFORE ORDERED that the application in this docket be, and the same is hereby, approved, and Nixon Brothers Transfer is authorized to sell and convey, and T. J. Pendergrass is authorized to purchase and operate under the authority contained in North Carolina Utilities Commission Motor Common Carrier Certificate C-46, with the exception of the authority for transportation of liquefied petroleum gas, pursuant to the terms set forth in the application.

IT IS FURTHER ORDERED that the authority contained in paragraph (4) of Certificate C-46 for transportation of liquefied petroleum gas be, and it is hereby, canceled.

IT IS FURTHER ORDERED that upon consummation of the sale and transfer herein authorized, Nixon Brothers Transfer shall return North Carolina Utilities Commission Certificate C-46 to the Chief Clerk of the Commission for cancellation, and the Chief Clerk is hereby directed to issue a certificate to the applicant, T. J. Pendergrass, containing the authority set forth in Exhibit B attached hereto.

IT IS FURTHER ORDERED that the parties are allowed thirty (30) days from the date this order issues in which to consummate the transaction herein involved, comply with the requirements of this order, file the required tariffs, evidence of insurance, list of equipment, and otherwise comply with the rules and regulations affecting the operations of a motor common carrier under the jurisdiction of the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1455

T. J. Pendergrass
Route 1, Box 52
Henderson, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

(1) Transportation of cotton in bales and feeds to and from points within 300 miles of Smithfield.

(2) Transportation of unmanufactured tobacco, lumber, fertilizer and brick from Johnston County to points in North Carolina within 300 miles of Smithfield, and from points in North Carolina within 300 miles of Smithfield to Johnston County, that is to say, movements of unmanufactured tobacco, lumber, fertilizer and brick shall either originate or terminate in Johnston County.

(3) Transportation of liquid petroleum products in bulk over irregular routes from existing originating terminals at or near Wilmington, Morehead City, River Terminal, Thrift, Friendship, Selma, Apex, Fayetteville and Salisbury to points and places in Johnston County.

DOCKET NO. T-1460

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application for approval of transfer of portion of Certificate No. C-70 from Apex Motor Line, Inc., Apex, North Carolina, to Wilco Transport, Inc., 5448 North Cherry Street, Winston-Salem, North Carolina) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on July 2, 1969, at 9:30 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (Presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicants:

George E. Doughton, Jr.
Spry, Hamrick and Doughton
Attorneys at Law
2225 Wachovia Building
Winston-Salem, North Carolina

For the Protestants:

Tom Steed, Jr.
Allen, Steed and Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
For: Associated Petroleum Carriers
Southern Oil Transportation Company, Inc.
Petroleum Transportation, Inc.
East Coast Transport Company, Incorporated
O'Boyle Tank Lines, Incorporated
Kenan Transport Company, Inc.

BIGGS, COMMISSIONER: These proceedings arise upon application filed with the North Carolina Utilities Commission (Commission) on April 8, 1969, by Wilco Transport, Inc. (Wilco), 5448 North Cherry Street, Winston-Salem, North Carolina, and Apex Motor Line, Inc. (Apex), Apex, North Carolina, wherein the applicants seek authorization for Apex to transfer to Wilco certain motor carrier rights now held by Apex. In its Calendar of Hearings issued on April 17, 1969, the Commission set said application for hearing on Friday, June 13, 1969, and specified that protests and objections to same should be filed in writing by June 6, 1969. On May 30, 1969, written protest was filed by Associated Petroleum Carriers, Spartanburg, South Carolina; Southern Oil Transportation Company, Inc., High Point, North Carolina; Petroleum Transportation, Inc., Gastonia, North Carolina; East Coast Transport Company, Incorporated, Goldsboro, North Carolina; O'Boyle Tank Lines, Incorporated, Washington, D. C.; and Kenan Transport Company, Inc., Durham, North Carolina. Hearing in the matter was continued by the Commission for good cause until July 2, 1969, at 9:30 o'clock a.m., at which time the matter was heard with appearances as hereinabove specified.

FINDINGS OF FACT

Based upon the evidence adduced at the hearing, the Commission makes the following findings of fact:

1. That Apex Motor Line, Inc., Apex, North Carolina, presently holds a certificate of public convenience and necessity, Certificate No. C-70, issued by the North Carolina Utilities Commission, under which it is authorized

to transport by motor truck as a common carrier, over irregular routes, the following commodities:

(1) Transportation of petroleum and petroleum products, in bulk in tank trucks, from existing originating terminals at or near Wilmington, Morehead City, River Terminal, Friendship, Apex, Fayetteville and Selma to points and places within the following Counties: Wake, Forsyth, Guilford, Randolph, Montgomery, Alamance, Durham, Harnett, Carteret, Lee and Chatham, 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 all grades of Bunker C oil and other fuel oils in bulk in tank trucks (not including gasoline) from all existing originating terminals at or near Wilmington, Morehead City, River Terminal, Friendship, Thrift and Salisbury to points and places in the State of North Carolina on and east of U. S. Highway 25 from the Tennessee State Line to the South Carolina State Line via Asheville.

2. That Wilco Transport, Inc., is a North Carolina corporation with principal offices in Winston-Salem, Forsyth County, North Carolina, organized under Articles of Incorporation filed with the Secretary of State of North Carolina on June 5, 1968, for the purpose of engaging in the business of carrying on a general petroleum products transport company, including, but not limited to, storage and transport of gasoline, kerosene, fuel oil, lubricants, and any and all other petroleum products or derivatives thereof, of whatever nature. The common stock of said corporation is owned by A. T. Williams and wife, of Winston-Salem, who are otherwise engaged in the business of operating the A. T. Williams Oil Company. Wilco does not now own any equipment, have any assets, or engage in any active business, although its organizer and principal stockholder, A. T. Williams, testified capital and equipment for the operation of said business would be supplied upon the Commission's approval of the transfer of operating rights from Apex to Wilco.

3. That Apex now seeks to transfer to Wilco that portion of the above described authority referred to in paragraph (1) and to retain the authority specified in paragraph (2).

4. That Apex has heretofore transported only what was described as "heavy oils", consisting of Bunker C oil consisting of Nos. 3, 4, 5, and 6 oils.

5. That during the last five years Apex's transportation of such oil has been only from the origin points specified into Wake County.

6. That Apex has not transported within the last year any petroleum product that it would not be authorized to transport under paragraph (2) of the authority which it proposes to retain; that Apex expects to continue the same operations it has conducted in recent years after the proposed transfer of authority to Wilco; that the applicants consider that the authority sought to be transferred will apply only to "light oils", i.e., gasoline and Nos. 1 and 2 fuel oil; that the applicants have agreed to so restrict their operations after the transfer; that Apex would continue its operations as in the past and Wilco would afford a new transportation service under the authority sought to be transferred.

7. That under the admissions contained in the record, the authority sought to be transferred by Apex has not been exercised by it in one or more years and that service under said portion of the franchise has not been continuously offered to the public up to the time of filing said application as required by G.S. 62-111(e); and that the portion of Apex's certificate sought to be transferred is dormant and the public convenience and necessity is no longer served by that portion of said common carrier certificate and the same should now be canceled under the authority of G.S. 62-112.

CONCLUSIONS

The common carrier authorities specified in paragraphs (1) and (2) of Apex's Certificate No. C-70 are substantially similar as far as the commodity description is concerned. It is conceded by the applicants that all of the transportation service provided by Apex in the last year or more was furnished under paragraph (2) of the authority and that Apex has not purported to operate under the authority specified in paragraph (1). The authority specified in paragraphs (1) and (2) were acquired at different times, and it would have been in order for the order authorizing the last acquisition to have consolidated and redefined the authorities into one merged authority. It is clear, however, that the authority described in paragraph (1) has not been exercised and is not needed by Apex in order to continue its operations. The approval of the proposed transfer of such authority to Wilco would in effect constitute the issuance of a new authority without any showing as to the public need and convenience for same.

It is concluded, therefore, that the authority specified in paragraph (1) of Certificate No. C-70 is dormant and should now be canceled.

IT IS, THEREFORE, ORDERED that the application of Apex and Wilco for approval of the transfer of the common carrier authority specified in paragraph (1) of Certificate No. C-70 be and the same is hereby denied.

IT IS FURTHER ORDERED that the common carrier authority specified in said paragraph is dormant and that the same be canceled. North Carolina Common Carrier Certificate No. C-70, now held by Apex Motor Line, Inc., is hereby amended in accordance with Exhibit B hereto attached. A copy of this order shall be placed in the file in Docket No. T-51, Sub 4, pertaining to Apex in order that this amendment to its certificate may be shown therein.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of August, 1969.

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

DOCKET NO. T-51 Apex Motor Line, Inc.
SUB 4 Apex, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of all grades of Bunker C oil and other fuel oils in bulk in tank trucks (not including gasoline) from all existing originating terminals at or near Wilmington, Morehead City, River Terminal, Friendship, Thrift and Salisbury to points and places in the State of North Carolina on and east of U. S. Highway 25 from the Tennessee State Line to the South Carolina State Line via Asheville.

DOCKET NO. T-1458

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Joint application for the sale and transfer of Certificate No. C-782 from L & S Truckers Service, Inc., 1702 W. Fifth Street, Lumberton, North Carolina, to Charlie Lewis Williams, d/b/a Williams Haulers, 2600 Camden Road, Fayetteville, North Carolina) ORDER APPROVING SALE AND TRANSFER

HEARD IN: The Commission's Hearing Room, Ruffin Building, Raleigh, North Carolina, on July 31, 1969, at 9:30 A.M.

BEFORE: Chairman Harry T. Westcott (Presiding) and Commissioners Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicants:

Charles Lee Guy
Attorney at Law
First Citizen's Bank Building
109 Green Street, Suite 309
Fayetteville, North Carolina 28301

J. Ruffin Bailey
Bailey, Dixon & Wooten
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina

For the Protestants:

Thomas W. Steed, Jr.
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
For: H & P Transit Company
Tidewater Transit Company, Inc.
Associated Petroleum Carriers
Southern Oil Transportation Company, Inc.
M & M Tank Lines, Inc.
East Coast Transport Company, Inc.
O'Boyle Tank Lines, Inc.
Kenan Transport Company
Petroleum Transportation, Inc.

WOOTEN, COMMISSIONER: The joint application for the sale and transfer of Common Carrier Certificate No. C-782 was filed on April 14, 1969, by L & S Truckers Service, Inc., (Transferor) and Charlie Lewis Williams, d/b/a Williams Haulers (Transferee). Certificate No. C-782 contains the following operating authority:

"Transportation of petroleum products in bulk, in tank trucks, over irregular routes, from the originating terminal at Wilmington, North Carolina, and Apex, Fayetteville and Selma, to all points and places in the Counties of Cumberland, Hoke and Robeson, and between points and places in these counties.

"Transportation of liquefied petroleum gas, in bulk, in tank trucks, from all originating terminals of such liquefied petroleum gas to points within carrier's authorized territory."

Protest was filed on May 30, 1969, by H & P Transit Company, Kinston, North Carolina; Tidewater Transit Company, Inc., Kinston, North Carolina; Associated Petroleum Carriers, Spartanburg, South Carolina; Southern Oil Transportation Company, Inc., High Point, North Carolina; M & M Tank Lines, Inc., Winston-Salem, North Carolina; East Coast Transport Company, Inc., Goldsboro, North Carolina; O'Boyle Tank

Lines, Inc., Washington, D. C.; Kenan Transport Company, Durham, North Carolina; and Petroleum Transportation, Inc., Gastonia, North Carolina, all alleging that the Protestants were engaged in the transportation of petroleum products and liquefied petroleum gas, in bulk, in tank trucks; that the subject authority is dormant; that the proposed action is contrary to the public interest; that the same is contrary to and not justified by public convenience and necessity and contrary to the transportation policy declared by the State of North Carolina; that the proposed action would create new service, and that the Applicant, Charlie Lewis Williams, is not fit or able to perform the service to the public under the certificate sought to be transferred; that the granting of the application would adversely affect the service to the public rendered by the Protestants and would deprive them of opportunity to transport commodities they are authorized to transport; and that the transfer would result in an unnecessary duplication of service.

Public hearing was finally scheduled and held as captioned in accord with the Commission's requirements, after publication in this Commission's Calendar of Hearings dated April 17, 1969.

The Transferor offered the testimony of Mr. D. F. Leviner, who owns all of the stock of L & S Truckers Service, Inc., and who testified that his company was the owner of Certificate No. C-782; that his rights included those specified and set out above; that he purchased his rights from a Mr. Hill in Fayetteville and began operations on August 26, 1963; that the customers for whom he had hauled petroleum products in bulk ceased using his services in March of 1968 and that his company has not hauled any petroleum products since that time; that between March 1968, and February 25, 1969, he continued to keep and maintain his equipment used and useful in the transportation of petroleum products; that during said period he continued to carry his company listing in the local telephone book; that he continued to maintain his office and personnel, including drivers, during said period; that at all times between March 1968, and February 1969, he held himself out to serve the public in accord with the terms of his certificate; that he petitioned this Commission for authority to suspend operations and as a result, this Commission issued its Order in Docket No. T-1089, Sub 2, dated February 25, 1969, authorizing the suspension of operations; that since February 25, 1969, he has ceased operations and no longer operates; that subsequent to the purchase of his rights in 1963 and up to and including February 25, 1969, his company at all times stood ready, willing and able and available to the public to render the service called for under his certificate, maintaining his office, advertising, employees and equipment for the rendering of such service. He further testified that he had not operated that portion of his franchise which granted authority for the transportation of liquefied petroleum gas, in bulk, in tank trucks, from all originating terminals of such liquefied petroleum gas to

points within the carrier's authorized territory, since the date of purchase, to wit: August 26, 1963. On cross examination, he testified that his operation included hauling liquefied petroleum products in bulk for Atlantic Refining Company and M. & J. Fuel Company, and that he could not recall hauling for anyone else.

The Applicant, Charlie Lewis Williams, testified that he was in the independent gas business under the name of Williams Oil Company and that he owns approximately 120 service stations being operated under the name of "Spur" or "Williams"; that he has hauled gas and fuel oil for himself and has considerable experience in this field and owns three transport trucks; that he owns four trucks used in the hauling of kerosene and fuel oils; that he has been in the oil business for five years and is familiar with and has experienced employees in the gas business.

The Protestants did not offer any testimony in this case but did offer by reference the certificates of each of the Protestants, their equipment lists, their financial statements, and other records of the Commission relating thereto.

Based upon the testimony of the witnesses, exhibits and relevant records, the Commission makes the following

FINDINGS OF FACT

1. Transferor, L & S Truckers Service, Inc., is the holder and owner of North Carolina Common Carrier Certificate No. C-782 and actively engaged in the transportation of commodities authorized thereunder, with the exception of the liquefied petroleum gas, until it lost its customers in March, 1968; that between March 1968, and February 25, 1969, it continuously offered and had available its services under its said franchise to the public; that on February 25, 1969, its operations were suspended by authority of the Commission under its Order in Docket No. T-1089, Sub 2; and that it has never transported liquefied petroleum gas.

2. There are no debts or claims against L & S Truckers Service, Inc., of which Transferee has any knowledge or notice of taxes, wages due, unremitted C.O.D. collections, loss of or damage to goods, overcharges, or interline accounts as defined in G.S. 62-111(c).

3. That Transferee, Charlie Lewis Williams, is an individual doing business as Williams Haulers transporting petroleum products in the States of North and South Carolina under a private haulers certificate of exemption; that he is familiar with the safety rules and regulations of this Commission and is fit, willing and able, financially and otherwise, to engage in the transportation of commodities between points and places in North Carolina as enumerated in Exhibit B attached hereto.

4. That the transfer in this case is in the public interest and will not adversely affect the service to the public under said franchise and will not unlawfully affect the services to the public by other public utilities.

CONCLUSIONS

The Commission concludes that the proposed sale and transfer is in the public interest and will not adversely affect the service to the public under said franchise, will not unlawfully affect the service to the public by other public utilities and that the transferee is fit, willing and able to perform the required service. The authority contained in Certificate No. C-782 for the transportation of liquefied petroleum gas, never having been exercised, is dormant and should be cancelled.

IT IS, THEREFORE, ORDERED That the application in this docket be, and the same is, hereby approved and Charlie Lewis Williams, d/b/a Williams Haulers, is authorized to purchase and operate under the authority contained in North Carolina Utilities Commission Motor Common Carrier Certificate No. C-782, with the exception of the authority for transportation of liquefied petroleum gas, pursuant to the terms set forth in the application, and as more specifically set forth in Exhibit B attached hereto and made a part hereof.

IT IS FURTHER ORDERED That the authority contained in Certificate No. C-782 for the transportation of liquefied petroleum gas be, and it is, hereby cancelled.

IT IS FURTHER ORDERED That upon consummation of the sale and transfer herein authorized, L & S Truckers Service, Inc., shall return to the North Carolina Utilities Commission Certificate No. C-782 for cancellation, and the Chief Clerk is hereby directed to issue a certificate to the Applicant, Charlie Lewis Williams, d/b/a Williams Haulers, containing the authority set forth in Exhibit B hereto attached.

IT IS FURTHER ORDERED That the parties be allowed thirty (30) days from the date of this order in which to consummate the transaction herein authorized, comply with the requirements of this order, file the required tariffs, evidence of insurance, list of equipment, and otherwise comply with the rules and regulations affecting the operation of a motor common carrier under the jurisdiction of the North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of August, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. T-1458

Charlie Lewis Williams
d/b/a Williams Haulers
2600 Camden Road
Fayetteville, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of petroleum products in bulk, in tank trucks, over irregular routes, from the originating terminal at Wilmington, North Carolina, and Apex, Fayetteville and Selma, to all points and places in the Counties of Cumberland, Hoke and Robeson, and between points and places in these counties.

DOCKET NO. T-1474

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
The Application of F. E. Easton, d/b/a Easton Mobile Homes, 1819 S. Slocumb Street, Goldsboro, North Carolina, for Authority to Transport Group 21, Mobile Homes as an Irregular Route Common Carrier) ORDER

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, October 28, 1969, at 10:00 A.M.

BEFORE: Commissioners Clawson L. Williams, Jr., Marvin R. Wooten and John W. McDevitt, (Presiding)

APPEARANCES:

For the Applicant:

Roland C. Braswell
Braswell, Strickland, Merritt & Rouse
Attorneys at Law
P. O. Box 1357, Goldsboro, North Carolina

For the Protestants:

Charles B. Morris, Jr.
Jordan, Morris & Hoke
Attorneys at Law
914 First Citizens Building
Raleigh, North Carolina
For: National Trailer Convoy, Inc.

Thomas S. Harrington
Attorney at Law

P. O. Box 535, Eden, North Carolina
For: Transit Homes, Inc.
Morgan Drive Away, Inc.

W. T. Shaw
Attorney at Law
308 Lawyers Building
Raleigh, North Carolina
For: Matthew W. Cooper, d/b/a Cooper's Mobile Home Moving Service

McDEVITT, COMMISSIONER: F. E. Easton, d/b/a Easton Mobile Homes (Applicant) filed application on August 22, 1969, for authority to transport Group 21, Mobile Homes of any description, within a radius of 125 miles of Goldsboro, North Carolina, as an irregular route motor common carrier. Public hearing was scheduled and held as captioned with notice being given in the Calendar of Hearings issued on September 15, 1969.

Protests were filed by Morgan Drive Away, Inc., Transit Homes, Inc., National Trailer Convoy, Inc. and Matthew W. Cooper, d/b/a Cooper's Mobile Home Moving Service. Each of the protestants have statewide authority to transport mobile homes and contend that granting of the proposed authority would deprive them of freight which they are authorized to transport and thereby unreasonably impair the efficient service of carriers operating under existing certificates.

During the course of the hearing the Applicant moved to amend its application to exclude territory west of U.S. Highway No. 1. The motion, having the effect of restricting rather than enlarging the scope of the authority sought, was allowed and the amended application is for the following authority:

"Group 21, Transportation of Mobile Homes of any description as an irregular route motor common carrier, within a radius of 125 miles of Goldsboro, North Carolina, excluding the area west of U.S. Highway No. 1."

The applicant, F. E. Easton, testified that he has been engaged in the business of selling mobile homes for ten years; that he owns and operates a mobile home park where he rents lots to 18 mobile home owners; that he is in the process of establishing a mobile homes parts business and intends to go out of the mobile home sales business if the proposed authority is granted; that he has experienced difficulty in obtaining services of motor common carriers of mobile homes for himself and customers who seek his services and help in moving their mobile homes; that he owns two tractors which he operates in connection with his mobile homes sales business for delivery of mobile homes and that he has not had use for a common carrier of mobile homes in his own business within the last 12 months, that he could recall, except on an occasion in July 1969, when he had an opportunity to purchase four salvaged trailers if he could

pick them up at Fayetteville within two days, and having only one truck in operation, he sought services of a common carrier to enable him to meet the two-day deadline; that he sells about a 100 trailers per year and maintains an inventory of about 15 units; that there are approximately ten mobile home dealers and 50 mobile home parks in Wayne County; that he has not made a study of many of the counties within the area for which he seeks authority and offered no substantive information about need for an additional common carrier other than in Wayne County; that based upon his sales experience, he is of the opinion that there is a need for the proposed service which would enable him to make one-day trips not requiring overnight travel.

E. H. Robbins, Goldsboro, North Carolina, testified that he operates a 97 unit mobile home park and a mobile home sales business in the City of Goldsboro; that many of his customers are military personnel stationed at Seymour Johnson Military Base which is located three blocks from his place of business; that he owns and operates a tractor in moving and delivering his own property but that he cannot legally transport mobile homes for another mobile home sales business in which he has an interest; that he supports Easton's application because he would then have a choice of four common carriers when he needs service; that he uses the services of uncertificated carriers because they are more readily available and cheaper; that he has not personally required the services of a common carrier within the past year; that in his opinion a local common carrier is needed in addition to the common carrier services which are available.

Robert S. Dail testified that he has lived in Washington, North Carolina, for approximately two years; that he entered the mobile home repair service July 15, 1969, after having served as an insurance adjuster for an insurer of mobile homes for about seven years in the northeastern section of North Carolina; that he has personally required the services of a common carrier on only two occasions in the past two years; that in his experience he was not usually concerned with the movement of mobile homes.

Witness Roy Woodard testified that he owns and operates a 78 unit mobile home park approximately nine miles from Goldsboro renting spaces to mobile home owners which include some military personnel stationed at Seymour Johnson Military Base, and approximately 12 to 15 owners of mobile homes who move them to nearby beaches for the summer months and return them to his park for rental purposes during the remainder of the year; that he is familiar with the certificated common carriers in the area and although he has not personally utilized their services, believes that an additional carrier is needed.

Witness Lewis E. Jones testified that he was employed by Easton in sales and repair work for three and one-half years. In partnership they bid on salvaged mobile homes

which they moved from various locations to Goldsboro to be repaired and sold; that two or three times in the course of their business arrangement, they were unable to obtain a carrier when required; that the average time required to obtain a carrier was three days; that he has not personally had need to call a carrier in twelve months; that the four-coach salvage move from Fayetteville, testified to by witness Easton, was an unusual instance; that in his opinion additional service is needed.

Witness Tommy Pittman of Wilson, North Carolina, has lived there for one and one-half years and operates a trailer park renting mobile homes and leasing space to owners; he testified that he recently called a common carrier to move a mobile home from Rocky Mount to the beach, and upon learning that the carrier could not move the trailer immediately, he obtained a truck and moved it himself; that this is the only occasion he has had to call a common carrier within the last twelve months.

At the conclusion of the presentation of the Applicant's evidence, counsel for the Protestants made a Motion for Nonsuit of the application on the grounds that the Applicant had failed to carry the burden of proof that the proposed service is needed in addition to existing authorized transportation services.

Based upon the evidence adduced and the official records of the Commission, we make the following

FINDINGS OF FACT

1. Public demand and need does not exist for the proposed service in addition to existing authorized service.

2. The Applicant is fit, willing and able to perform the proposed service.

3. The Applicant is solvent and financially able to furnish the proposed service.

CONCLUSIONS

G.S. 62-262(e) declares that the burden of proof shall be upon the Applicant to show to the satisfaction of the Commission:

"(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."

The Applicant and supporting witnesses offered no evidence of the need for a common carrier of mobile homes in most of the counties for which authority is sought. All of the witnesses have been engaged in some phase of the mobile home business, but individually and collectively they failed to establish that they have been unable to obtain the services of a common carrier for their own transportation requirements because they either own and operate their own equipment or do not ordinarily require such services. It is interesting to note that there was not a single public witness who was the owner or resident of a mobile home who appeared to testify that he was unable to obtain the services of a common carrier. The desire of the Applicant to obtain a certificate must be considered in the light of Rule R2-15(a) which declares that the "uncorroborated testimony of the applicant is generally insufficient to establish public demand and need". It is the conclusion of the Commission that the Applicant has failed to sustain the burden of proof that there is public demand and need for the proposed service in addition to existing authorized transportation services, that the Motion for Nonsuit should be allowed and that the application should be dismissed.

IT IS THEREFORE ORDERED that the Motion made by the Protestants at the conclusion of the Applicant's evidence for Nonsuit for the application of F. E. Easton, d/b/a Easton Mobile Homes for a Certificate of Convenience and Necessity to transport mobile homes be allowed and that the application be, and it is hereby, denied and this proceeding dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of December, 1969.

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

DOCKET NO. T-1477

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Jim K. Sherron, d/b/a Sherron Trucking Company, P. O. Box 226, Raleigh, N.C., For Authority to Transport Group 21 Mobile Homes From All Points and Places to all Points and Places Within the State of North Carolina	) ORDER SUSTAINING MOTION FOR JUDGMENT AS OF NONSUIT AND DISMISSING THE APPLICATION

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina on October 30, 1969

BEFORE: Chairman Harry T. Westcott, and Commissioners Marvin R. Wooten and Clawson L. Williams, Jr. (Presiding)

APPEARANCES:

For the Applicant:

John D. McConnell, Jr.
Broughton & Broughton
Attorneys at Law
P. O. Box 2715, Raleigh, North Carolina 27602

For the Protestants:

Charles B. Morris, Jr.
Jordan, Morris & Hoke
Attorneys at Law
P. O. Box 1606, Raleigh, North Carolina
For: National Trailer Convoy, Inc.

Thomas S. Harrington
Attorney at Law
P. O. Box 535, Eden, North Carolina
For: Morgan Drive-Away, Inc.
Transit Homes, Inc.

W. T. Shaw
Attorney at Law
308 Lawyers Building
Raleigh, North Carolina
For: Matthew W. Cooper, d/b/a Cooper Mobile
Homes Moving Service

WILLIAMS, COMMISSIONER: By application filed with the Commission on August 29, 1969, Jim K. Sherron, d/b/a Sherron Trucking Company, P. O. Box 226, Raleigh, North Carolina seeks authority as an irregular route common carrier to engage in the transportation of Group 21 Mobile Homes.

Notice of the application together with a description of the rights sought together with the time and place of hearing was published in the Commission's Calendar of Hearings published on September 15, 1969.

Protests were duly filed by Transit Homes, Inc. on October 14, 1969, by Morgan Drive-Away, Inc. on October 2, 1969 by Matthew W. Cooper, d/b/a Cooper's Mobile Homes Moving Service on October 8, 1969, and by National Trailer Convoy, Inc. on October 6, 1969. The matter was heard at the time and place shown in the caption and the applicant and protestants were present and represented by counsel as shown in the caption.

The applicant presented its witnesses and exhibits as appear of record and rested. At the conclusion of applicant's evidence, protestants duly moved for judgment as of nonsuit and that the application be dismissed.

Upon consideration, the Hearing Division unanimously agreed that said motion should be sustained and the same was sustained and the application dismissed.

Upon consideration of the evidence of record, viewed in the light most favorable to the applicant, the Commission makes the following

FINDINGS OF FACT

1. That the applicant is fit, willing and able to properly perform the proposed services.

2. That the applicant is solvent and financially able to provide service on a continuing basis.

3. That there was no competent nor material evidence that the public convenience and necessity require the proposed services in addition to existing authorized transportation service.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

The evidence presented at the hearing, even when viewed in the light most favorable to the applicant, wholly fails to sustain the burden of proof upon the applicant to show that the public convenience and necessity require the proposed service in addition to authorized existing transportation service as required by G.S. 62-262(e).

The evidence tends to show that the applicant desires to enter the field of transporting mobile homes in North Carolina but there is no showing that the existing transportation facilities and service are inadequate or that the proposed transportation service is needed to meet the demands of the public. At best the evidence shows no more than that applicant and certain witnesses would like to see the applicant afforded the rights applied for, and that applicant is fit, willing and able financially and otherwise to provide such service. The record is dehors any evidence that the presently existing authorized transportation service available is inadequate to meet the needs of the public. That being the case the Commission is duty bound under the requirements of G.S. 62-262(e) to sustain the motion for judgment as of nonsuit and

IT IS, THEREFORE, ORDERED That the application of Jim K. Sherron, P. O. Box 226, Raleigh, North Carolina, d/b/a Sherron Trucking Company is hereby denied. The motion for judgment as of nonsuit is sustained and the application is dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 14th day of November, 1969.

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

DOCKET NO. T-1478

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
The application of Dewitt P. Sparks, Jr., for authority as an irregular route motor common carrier to transport Group 21, Mobile homes and house trailers, state-wide) ORDER

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on October 31, 1969, at 10:00 A.M.

BEFORE: Chairman H. T. Westcott, Commissioners Clawson L. Williams, Jr., Marvin R. Wooten, and John W. McDevitt (Presiding)

APPEARANCES:

For the Applicant:

E. James Moore
Attorney at Law
North Wilkesboro, North Carolina

For the Protestants:

Charles B. Morris
Jordan, Morris and Hoke
Attorneys at Law
Box 1606, Raleigh, North Carolina
For: National Trailer Convoy, Inc.

Thomas S. Harrington
Attorney at Law
Box 535, Eden, North Carolina
For: Transit Homes, Inc.
Morgan Drive Away, Inc.

Ralph Davis
Attorney at Law
Box 426, North Wilkesboro, North Carolina
For: Sam Eller, t/a Sam D. Eller Motor Carrier

McDEVITT, COMMISSIONER: Dewitt P. Sparks, Jr., (Applicant) filed application on September 2, 1969, for authority as an irregular route motor common carrier to transport the following commodities:

Group 21. Transportation of mobile homes and house trailers between points and places in Wilkes County, North Carolina and from points and places in Wilkes County to points and places in the State of North Carolina, and from points and places in the State of North Carolina to points and places in Wilkes County, and between points and places in the State of North Carolina.

Public hearing was scheduled and held as captioned. Protests were filed by National Trailer Convoy, Inc., Transit Homes, Inc., Morgan Drive Away, Inc., and Sam Eller, t/a Sam D. Eller Motor Carrier.

Applicant, Dewitt P. Sparks, Jr., testified that he has been in the mobile home retail business for four (4) years, operating two sales lots in Wilkes County and one lot in Caldwell County; that he has been in the mobile home manufacturing business for two years; that he sells about three hundred trailers per year and transports approximately four hundred trailers with his three tractors; that he is able financially and otherwise to provide the proposed service on a continuing basis; that his business receives three to five requests weekly to move trailers; that he usually refers requests for transportation services to Sam Eller Motor Carrier in North Wilkesboro, whose services have been satisfactory; that he knows of other common carriers in the area including Moore's Mobile Home Moving Service, Moravian Falls; Pop's Trailer Towing, Connelly Springs; Transit Homes, Statesville; and Joe's Mobile Homes, Morganton, but that he has never called on any of these carriers for transportation service; that he was unable to identify by name any of the people who have called upon him for transportation service within the last four years. Applicant Sparks did not offer testimony as to the need for transportation service for mobile homes in any of the counties of the State other than Wilkes and Caldwell where his businesses are located and where he testified that he received requests for transportation service.

Witness Don Caldwell testified that he lives in Boomer, North Carolina, where he has been employed for five and one-half months by Applicant Sparks as a salesman; that in his capacity as salesman he received requests to move mobile homes which were referred to Sam Eller Motor Carrier but that he has not called any other common carrier although he knows about them; that the services of Sam Eller Motor Carrier have been satisfactory; that he was unable to recall the name of a single person who complained about delay or inability to obtain moving service.

Witness Gene Atwell Brookshire testified that he lives in Wilkes County where he has been employed for two and one-half years as tax appraiser for the county; that the official records of his office reveal that there were 786 mobile homes listed for taxes in Wilkes County for the year 1968 and 897 mobile homes listed for taxes for the year 1969.

Upon the conclusion of the evidence by the applicant, the protestants and each of them joined in a motion for judgment of nonsuit of the application for the reason that the applicant failed to show that there is public need for the proposed service in addition to existing authorized service. The Commission immediately reviewed the evidence and concluded that the applicant had failed to show that there is a public need for the proposed service in addition to existing authorized service.

Based on the evidence adduced and official records the Commission makes the following

FINDINGS OF FACT

1. Public demand and need does not exist for the proposed service in addition to existing authorized service.

2. The applicant is fit, willing and financially able to perform the proposed service.

CONCLUSIONS

G.S. 62-262(e) declares that the burden of proof shall be upon the applicant to show to the satisfaction of the Commission:

(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 perform the proposed service, and

(3) That the applicant is solvent and financially able to furnish adequate service on a continuing basis.

Although the application is for statewide authority, the applicant and supporting witnesses offered no testimony as to the need for common carrier service of mobile homes other than in Wilkes and Caldwell Counties. Applicant Sparks and his employee witness, Don Caldwell, failed to establish for their business any unmet need for a common carrier of mobile homes and they had no complaints about the quality of the service of the certificated common carriers. Witness Brookshire testified as to the number of mobile homes in Wilkes County. He did not cite any instance of unmet transportation service. It is interesting to note that not a single public witness who is the owner or resident of a mobile home appeared to testify that he was unable to obtain services of a common carrier. The desire of the applicant to obtain a certificate must be considered in the light of Commission Rule R2-15(a) which declares that the "uncorroborated testimony of the applicant is generally insufficient to establish public demand and need." It is the conclusion of the Commission that the applicant has failed to sustain the burden of proof that there is public

demand and need for the proposed service in addition to existing authorized transportation services; that the motion for nonsuit should be allowed and the application dismissed.

IT IS, THEREFORE, ORDERED, That the motion for nonsuit made by protestants at the conclusion of the applicant's evidence be allowed and that the application be, and it is, hereby denied and this proceeding dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of December, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. R-20, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Durham & Southern Railway Company for Authority to Discontinue its Agency Station at Angier and Coats, North Carolina) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on November 25, 1969, at 2 o'clock P.M.

BEFORE: Chairman Harry T. Westcott and Commissioners Marvin R. Wooten and Clawson L. Williams, Jr. (Presiding)

APPEARANCES:

For the Petitioner:

R. Roy Mitchell, Jr., Esq.
Nye & Mitchell
Attorneys at Law
401 First Union Bank
Durham, North Carolina

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney

WILLIAMS, COMMISSIONER: By application filed with the Commission on September 30, 1969, Durham & Southern Railway Company (Durham & Southern) seeks authority to discontinue its agency stations at Angier and Coats, North Carolina.

The matter was set for hearing at the time and place shown in the caption by Order of the Commission dated October 13, 1969, which Order also required the applicant to give notice of the hearing by publication.

Within due time, the Commission received letters of protest from the Angier Chamber of Commerce and from the Board of Commissioners of the Town of Angier, together with a copy of a resolution in opposition to the application passed by the Board of Commissioners of the Town of Angier. No one appeared at the hearing on behalf of protestants, however, nor did anyone appear in opposition to the petition.

From the testimony and exhibits received into evidence, the Commission makes the following

FINDINGS OF FACT

1. That petitioner is a corporation and is a duly certificated rail carrier within the State of North Carolina and operates agency stations at various points in North Carolina including Angier and Coats, North Carolina.

2. That Angier is now the governing agency for Kennebec and Barclaysville, North Carolina and applicant proposes to make Varina, North Carolina the governing agency for Angier, Kennebec and Barclaysville and Dunn the governing agency for Coats.

3. That Kennebec is 6.8 miles from Varina (Highway N.C. 55); Angier is 9.3 miles from Varina (Highway N.C. 55); Barclaysville is 14 miles from Varina (S.R. 1532 and N.C. 55). Varina, Kennebec, Angier, and Barclaysville are all on the Raleigh, North Carolina exchange and all calls are local between these communities.

4. That the population of Kennebec is approximately 125; Angier is 1249 (1960 census); Barclaysville - approximately 60; and Coats - 1056 (1960 census).

5. That the Applicant now maintains a joint agency at Coats and Angier which agent also handles Western Union telegrams and REA Express. Both REA and Western Union have advised the Commission that they are willing to make arrangements and have no objection to the closing of the agency stations.

6. That as shown on Applicant's Exhibit 4, the agency station at Coats operates at a near breaking even point at present and the agency station at Angier operates at a deficit and said stations have been experiencing steadily declining revenues for shipments for the years 1966, 1967, 1968 and the first seven months of 1969.

7. Under the proposed plan agents at Dunn and Varina will notify receivers of car-load shipments at Coats, Angier, Barclaysville and Kennebec by telephone and car notice of inbound shipments. Any outbound shipments originating, the waybills would be taken to the shipper for signature and collecting freight on prepaid shipments.

8. That the agency hours at Varina are from 8:30 P.M. to 12 noon and 1 P.M. to 5:30 P.M., Monday through Friday. The agency hours at Dunn are from 8 A.M. to 5:30 P.M., Monday through Friday and 9 A.M. to 11 P.M. on Saturday.

9. That an investigation by the Commission's Investigator, Mr. Worth Hailey, reveals no public objection to the closing of the two agency stations involved.

10. That the public convenience and necessity does not require continued operation of the agency stations at Angier, North Carolina and Coats, North Carolina and the

public will be adequately served if the business at Angier, North Carolina and Coats, North Carolina is conducted from the agency stations at Varina, North Carolina and Dunn, North Carolina.

Based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

In the light of the evidence the Commission can find no justification for burdening the Company with the continuing operation of the agency stations at Angier and Coats, North Carolina, there being no evidence of any diminution of service to the public as a result of the closing of said stations.

Adequate notice has been duly given to the officials of the towns involved, to principal shippers and receivers, to the Board of County Commissioners of Harnett County, to the REA and to Western Union. None of these parties have appeared in opposition to the petition and it must be concluded therefrom that there is no material objection to the closing of the agency stations at Angier and Coats.

IT IS, THEREFORE, ORDERED that the Application, Durham & Southern Railway Company, is hereby authorized to close and discontinue its agency stations at Angier, North Carolina and Coats, North Carolina, at its convenience at any time following the issuance of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 10th day of December, 1969.

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

DOCKET NO. R-29, SUB 181

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Southern Railway Company for authority to discontinue Agency Station at Tuxedo, North Carolina, and to dismantle and remove the present station building) RECOMMENDED ORDER GRANTING APPLICATION

HEARD IN: The Superior Courtroom, Henderson County Courthouse, Hendersonville, North Carolina, on August 8, 1969, at 9:30 A.M.

BEFORE: Marvin R. Wooten, Hearing Commissioner

APPEARANCES:

For the Applicant:

James M. Kimzey
Joyner, Moore & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina

WOOTEN, HEARING COMMISSIONER: On June 5, 1969, Southern Railway Company (hereinafter Southern) filed its Petition for authority to discontinue its agency station at Tuxedo, North Carolina, to dismantle and remove the present station building and to handle its business from its agency station at Hendersonville, North Carolina.

Hearing was held at the above captioned time and place after proper notice to the public.

Southern was present and represented by counsel. No formal protests were received and no protestants appeared at the hearing.

Applicant posted notice of its proposed action pursuant to Rule R1-14 of the Rules of Practice and Procedure.

Upon consideration of the evidence adduced, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. Applicant is a duly authorized common carrier of persons and property by rail in North Carolina intrastate commerce and is subject to the jurisdiction of the North Carolina Utilities Commission.

2. Tuxedo, North Carolina, is located on the line of Southern extending from Spartanburg, South Carolina, to Asheville, North Carolina, and is located 7 miles south of its governing agency station at Hendersonville, North Carolina, on Highways I-26 and U.S. 26 and U.S. 64.

3. Local telephone service is not available between Tuxedo and Hendersonville, North Carolina; however, Southern has agreed to accept collect telephone calls from Tuxedo customers at their Hendersonville Agency Station.

4. The agency station at Tuxedo is open from May 15, to September 15, a period of five (5) months during the summer each year, and operates from 7:30 a.m. to 4:30 p.m. The Hendersonville Agency Station is open from 7:30 a.m. to 4:30 p.m., Monday through Saturday during the entire year except for holidays. The Tuxedo Station when open operates on a five-day week schedule instead of six.

5. All freight originating at or destined for Tuxedo is handled at all times through the Hendersonville Agency Station and the only service rendered by the Tuxedo Agency Station in the past was passenger service which was discontinued earlier this year, and the train removed, because of a complete and total lack of passenger business.

6. The railroad agent at Tuxedo does not represent the Railway Express Agency in the transportation of that company's express shipments.

7. During the five-month period for 1967 and the five-month period for 1968, at which time the Tuxedo Agency Station was opened and operated, Southern's total revenue for the year 1967 was $12,984, and for the year 1968, $1,566 which was for forwarded traffic. Less-than-carload shipments were nil during both years. In 1968, the agency station earned $30.00, in 1967, it earned $1.00 and in 1969, no passenger revenues were received. The revenues received during 1967 were made up in large part from one large demurrage charge which was a one-shot deal. Total expenses at the station for 1967 were $2,199 and for 1968 were $2,363.

8. The exhibits presented by the applicant clearly show that for the years 1967 and 1968, the agency station at Tuxedo was operated at a substantial deficit and that future prospects for revenues and expenses in connection with the operation of said station were the same.

9. Shippers and receivers of freight, carload and less-than-carload, would conduct their business with the proposed governing agency station at Hendersonville, North Carolina, in essentially the same manner as they have conducted it in the past with the Tuxedo Agency Station.

CONCLUSIONS

Applicant has borne the statutory burden of proof and has established by the greater weight of evidence that:

(1) The public convenience and necessity does not require the continued operation of its agency station at Tuxedo, North Carolina.

(2) No existing shipper or receiver will be materially inconvenienced or affected by the closing of the agency station at Tuxedo.

(3) The public can and will be adequately served if its business at Tuxedo is conducted from its agency station at Hendersonville.

(4) The application should be granted and Southern permitted to discontinue the agency station at Tuxedo, and to handle future business from its agency station at Hendersonville.

IT IS, THEREFORE, ORDERED:

1. That the application in this docket be, and the same is, hereby approved.

2. That Southern Railway Company be, and it is, hereby authorized to discontinue its agency station at Tuxedo, North Carolina, and to handle business from its agency station at Hendersonville, North Carolina.

3. That Applicant notify this Commission the date it closes its Tuxedo Agency Station.

ISSUED BY ORDER OF THE COMMISSION.
This the 28th day of August, 1969.

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

DOCKET NO. R-29, SUB 182

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Southern Railway Company to discontinue its Agency Station at Saluda, North Carolina, and to dismantle and remove the present station building) RECOMMENDED ORDER GRANTING APPLICATION

HEARD IN: The Superior Courtroom, Henderson County Courthouse, Hendersonville, North Carolina, on Friday, August 8, 1969, at 9:30 A.M.

BEFORE: Marvin R. Wooten, Hearing Commissioner

APPEARANCES:

For the Applicant:

James M. Kimzey
Joyner, Moore & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina

For the Protestants:

Not Represented by Counsel

WOOTEN, HEARING COMMISSIONER: Southern Railway Company (hereinafter Southern), by application filed on June 5, 1969, seeks authority to close and discontinue its agency station at Saluda, North Carolina, and to dismantle and remove the present station building and to handle its business from its agency station in Hendersonville, North Carolina.

Hearing was held at the above captioned time and place after proper notice to the public.

Southern was present and represented by counsel. No formal protests were received, however, several interested citizens appeared not in the capacity of protestant but, "we are here asking for consideration". Those appearing "asking for consideration" were Nolan Pace, Saluda, North Carolina; Ben Burgess, Saluda, North Carolina; Dell Williams, Saluda, North Carolina; and A. A. Atkins, Saluda, North Carolina.

Applicant posted notice of its proposed action pursuant to Rule R1-14 of the Rules of Practice and Procedure.

Upon consideration of the evidence adduced at the hearing, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. Applicant is a duly authorized common carrier of persons and property by rail in North Carolina intrastate commerce and is subject to the jurisdiction of the North Carolina Utilities Commission.

2. Saluda, North Carolina, is located on the line of Southern extending from Spartanburg, South Carolina, to Asheville, North Carolina, and is located approximately 12.6 miles from Hendersonville by rail and approximately 10 miles by highway south of Hendersonville, North Carolina. Saluda and Hendersonville are connected by a black top highway which is in good condition and is number N.C. 176.

3. Local telephone service is not available between Saluda and Hendersonville, however, the applicant has agreed to accept collect telephone calls from customers in Saluda at their Hendersonville governing agency station.

4. There is no passenger service offered at or through the Saluda Agency Station.

5. The applicant's records reflect that they did not have any shipments of any consequences in 1969 and very little during 1968, and that for the Month of July, 1969, there were no earnings whatsoever at the Saluda Agency Station.

6. The Saluda Agency Station is operated Monday through Friday from 8:00 a.m. to 5:00 p.m. year-round. The governing agency station at Hendersonville is operated from 7:30 a.m. to 4:30 p.m., Monday through Saturday year-round.

7. The railroad agent at Saluda does not represent the Railway Express Agency in the transportation of that company's express shipments.

8. Applicant's exhibits show that for the calendar year 1968, Southern's total revenues were $976.00 and for the

year 1969 to date were $405.00; that there were no LCL revenues received during the year 1969; that during 1968, passenger revenues at Saluda were $196.00 and that no passenger revenues were received to date during 1969; during the year 1968, expenses at the Saluda Station were $8,891 and for the period ending June 30, 1969, $9,127; that Southern had a net operating loss of $7,915 for 1968, and $8,722 for 1969.

9. That direct or out-of-pocket expenses incurred by the applicant in the operation of its agency station at Saluda exceeded revenues received by the carrier for the transportation of shipments handled at said agency during the years 1967, 1968, and 1969.

10. Shippers and receivers of freight, carload or less-carload, would conduct their business with the proposed governing agency station of Hendersonville, North Carolina, in essentially the same manner as they have conducted it in the past with the Saluda agency.

CONCLUSIONS

The applicant has borne the statutory burden of proof and has established by the greater weight of evidence that:

(1) The public convenience and necessity does not require the continued operation of its agency station at Saluda, North Carolina.

(2) That the indirect public benefit which might or might not be derived from the continued operation of the agency station in the improved changes of the possible location of new industrial operations in the community is not such or sufficient as to justify the continued deficit operation of the agency station at Saluda.

(3) No existing shipper or receiver will be materially inconvenienced or affected by the closing of the agency station at Saluda.

(4) The public can and will be adequately served if its business at Saluda is conducted from the agency station at Hendersonville, North Carolina.

(5) The application should be granted and Southern permitted to discontinue the agency station at Saluda, and to handle future business from the agency station at Hendersonville, North Carolina.

IT IS, THEREFORE, ORDERED:

1. That the application in this docket be, and the same is, hereby approved.

2. That Southern Railway Company be, and it is, hereby authorized to discontinue its agency station at Saluda,

North Carolina, and to handle its business from its agency station at Hendersonville, North Carolina.

3. That Applicant notify this Commission the date it closes its Saluda Agency Station.

ISSUED BY ORDER OF THE COMMISSION.
This the 28th day of August, 1969.

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

DOCKET NO. R-66, SUB 58

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter
Petition for Authority to Apply on North Carolina) ORDER
Intrastate Traffic the Same Increases in Rail Rates)
and Charges as now Applicable on Interstate Traffic)

HEARD IN: The Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on May 27, 28, 29 and 30, 1969

BEFORE: Chairman Harry T. Westcott, presiding, and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Respondents:

Col. W. T. Joyner
Joyner, Moore & Howison
Attorneys at Law
Box 109, Raleigh, North Carolina
For: Respondent Rail Carriers

James M. Kimzey
Joyner, Moore & Howison
Attorneys at Law
Box 109, Raleigh, North Carolina and
James L. Howe, III
Attorney at Law
Southern Railway System
P. O. Box 1808, Washington, D. C.
For: Southern Railway

Albert B. Russ, Jr.
Attorney at Law
Seaboard Coast Line Railroad Company
3600 West Broad Street, Richmond, Virginia
For: Respondents Generally and Seaboard
Coast Line Railroad in Particular

R. N. Simms, Jr.
Attorney at Law
P. O. Box 2776, Raleigh, North Carolina
For: Norfolk Southern Railway Company

For the Protestants:

Clarence H. Noah and
Kenneth Wooten, Jr.
Bailey, Dixon, Wooten & McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602
For: Vulcan Materials
Superior Stone Company
Becker Sand and Gravel Company
Material Sales Company

F. Kent Burns
Boyce, Burns & Smith
Attorneys at Law
Box 1046, Raleigh, North Carolina 27602
For: Weyerhauser Company
Albemarle Paper Company
Riegel Paper Corporation
U. S. Plywood-Champion Papers, Inc.

Charles B. Morris, Jr., and
John R. Jordan, Jr.
Jordan, Morris & Hoke
Attorneys at Law
Box 1606, Raleigh, North Carolina 27602
For: Carolina Ready Mixed Concrete Association

A. S. Bonney (No Attorney)
Ideal Cement Company
821 17th Street
Denver, Colorado 80202
For: Ideal Cement Company

E. C. Meredith (No Attorney)
Carolina Asphalt Pavement Association
Sir Walter Hotel, Raleigh, North Carolina 27602
For: Carolina Asphalt Pavement Association

For the Public:

George A. Goodwyn and
Jean A. Benoy
Assistant Attorneys General
Justice Building, Raleigh, North Carolina 27602
For: Using and Consuming Public

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney
N. C. Utilities Commission

Ruffin Building
Raleigh, North Carolina 27602

BY THE COMMISSION: On February 28, 1969, Southern Freight Tariff Bureau, Southern Freight Association, Agent, Atlanta, Georgia, for respondent railroads, filed with this Commission Supplement S-15 to Tariff of Increased Rates and Charges X-259-B, which proposed to make applicable on freight traffic moving via rail in North Carolina intrastate commerce increases in freight rates and charges corresponding in all respects with those applicable on interstate traffic as published in Tariff of Increased Rates and Charges X-259-B. On the same date counsel for the North Carolina railroads filed a petition seeking authority to advance the effective date of Supplement S-15 to the aforementioned tariff from April 3, 1969, to an earlier date.

On March 13, 1969, the Commission entered its Order in this docket denying the request for authority to advance the effective date. By the same Order, the Commission suspended the application of said Supplement S-15 to Tariff of Increased Rates and Charges X-259-B to and including September 30, 1969, instituted an investigation into and concerning the proposed increase and assigned the matter for hearing on May 27, 1969. The Order named the railroads operating in North Carolina intrastate commerce respondents and placed upon said carriers the burden assigned them by statute of proving that the proposed increase in rates and charges is just, reasonable and otherwise lawful. The matter was declared to be a general rate case under G.S. 62-137.

Protests to the proposed increase were filed by Vulcan Materials, Superior Stone Company, Becker Sand and Gravel Company, Material Sales Company, Weyerhauser Company, Albemarle Paper Company, Riegel Paper Corporation, U.S. Plywood-Champion Papers, Inc., Carolina Ready Mixed Concrete Association and Ideal Cement Company.

On May 7, 1969, paper company protestants filed a motion for an order by the Commission requiring the three principal railroads in North Carolina intrastate commerce, viz: Southern Railway Company, Norfolk Southern Railway Company and Seaboard Coast Line Railroad Company to furnish certain information to these protestants and for a continuance of the hearing set for May 27, 1969, until a time at least 30 days after the submission of said information. By Order in this docket dated May 9, 1969, protestants' motion was set for oral argument on May 13, 1969, and after same was duly held by Order dated May 15, 1969, the Commission denied the motion of protestants in full.

The hearing was held at the captioned time and place with railroad respondents present and represented by counsel. Protestant paper companies, stone and aggregate companies, and Carolina Ready Mix Concrete Association were present and

represented by counsel. Ideal Cement Company and Carolina Asphalt Pavement Association were present without counsel.

FINDINGS OF FACT

Based upon evidence adduced at the hearing, the Commission makes the following findings of fact

1. Respondent railroads operate as common carriers of property by rail in North Carolina intrastate commerce and are subject to the jurisdiction of the North Carolina Utilities Commission.

2. The respondent railroads, by and through their tariff publishing agent, Southern Freight Association, filed with the North Carolina Utilities Commission, Supplement S-15 to Tariff of Increased Rates and Charges X-259-B, whereby they seek to make applicable on freight traffic moving by rail in North Carolina intrastate commerce increases in freight rates and charges corresponding in all respects with those applicable on interstate traffic as published in said Tariff X-259-B, which include the interim increases (maximum 3%) allowed in Tariff X-259-A.

3. The increases in rates and charges proposed in this proceeding are not to be added to or compounded with the increases (maximum of 3%) approved by this Commission in its Order of February 18, 1969, in Docket No. R-66, Sub 56, Interim Increase on North Carolina Intrastate Traffic, as they include in the pending schedules the increases as published in Tariff of Increased Rates and Charges X-259-A approved in said Docket R-66, Sub 56 Interim Increases (maximum 3%).

4. The increases here sought range generally from 3 to 10 percent, including the aforementioned maximum increase of 3%.

5. The system-wide rates of return of respondent railroads have declined since 1966, with the rates of return for Class I railroads operating in North Carolina being 3.72% in 1966, 3.44% in 1967, and 3.04% in 1968, and for Class II railroads in North Carolina the 1968 rate of return was 0.68%, after certain tax accruals were taken into account.

6. Increases in the cost of labor, materials and supplies have been experienced by the respondent carriers which have not been equalled by comparable increases in revenue.

7. The railroad respondents have made separations and allocations of revenues, expenses and properties and while same are not mathematically exact, they are sufficiently and reasonably adequate to show that the cost of providing intrastate rail freight service in North Carolina exceeds the revenues derived therefrom for the study period. This

allocation and separation method for determining North Carolina costs does not reflect results with exactitude, but when viewed in conjunction with other evidence justifies a determination as to the justness and reasonableness of the increases sought. The evidence, when viewed in this light, shows, and the Commission so finds, that the rates of return of respondent rail carriers on intrastate service in North Carolina are at least no higher than the systemwide rates of return discussed previously, are inadequate and insufficient, and are sufficiently low to justify and require with certain exceptions the additional revenues that the proposed increased freight rates and charges as authorized herein will produce.

8. The respondent railroads need the increases in rates approved herein to provide additional freight revenues to meet increased operating costs and to enable them to continue to fulfill their obligation to the shipping and receiving public as common carriers by providing adequate and efficient transportation service.

9. Respondent carriers propose substantially greater increases percentagewise for application on carload shipments of sand, gravel and crushed stone than is proposed on many other commodities of lower density, greater value and that are more susceptible to damage. The proposed increases in the rates on aggregates are published in cents per net ton and in connection with the normal scale of rates range from an increase of 25% in the rate applicable for a distance of 10 miles to an increase of 14.3% in the single line scale rate for a distance of 100 miles. The preponderance of the aggregate movement is for relatively short distances.

10. The rates applicable on aggregates in articulated cars reflect a substantially lower level than is applicable on shipments transported in other than articulated equipment. Respondents proposed to increase the rates applicable on shipments in articulated equipment in the same amounts in cents per net ton as is proposed in connection with the rates applicable on shipments moving in ordinary gondola and hopper cars. This results in substantially greater percentage increases being proposed in connection with the rates applicable on shipments in articulated equipment than on like shipments moving in ordinary equipment.

11. Sand, gravel, and crushed stone are high density, low value commodities that are impervious to damage from the elements or otherwise and move almost exclusively in very old equipment not suitable for the transportation of other commodities. The movements are often to the same location and consignee in multiple carloads.

12. Respondents have not borne the burden of proving that the substantially higher increases proposed in connection with the rates on sand, gravel, crushed stone, and related

commodities with a value at origin not exceeding $4.00 per net ton of 2,000 pounds will not result in those commodities being required to bear more than their rightful share of the transportation burden nor than the increases proposed on those commodities are just, reasonable and lawful.

13. An increase of 10 cents per net ton in the normal rates on sand, gravel, crushed stone, and related commodities, having actual value not exceeding $4.00 per net ton at point of origin, loaded in bulk in open top cars not covered with tarpaulin or other protective covering as described in Item 1430 series of S.F.T.B. North Carolina Mileage Commodity S-629-E and an increase in the same amount in the basic rate applicable on the first 200,000 pounds of road aggregates loaded in articulated equipment and an increase of 5 cents per net ton in the incentive rates applicable on weight in excess of 200,000 pounds loaded in the same articulated car are just, reasonable and lawful.

14. The proposed increase in the rates on pulpwood and wood chips is 5%. This includes the increase of 3% approved by this Commission in its Order of February 18, 1969, in Docket No. R-66, Sub 56.

Protestant paper companies introduced evidence with view of showing that the rate of return of the principal North Carolina railroads (except the Norfolk Southern) for the first quarter of 1969 exceeded that in each of the years 1965 through 1968. The Commission concludes that the period used to show the increases in rates of return is too short to be representative. Further, except for the Southern, the carriers record of earnings for the years 1965, 1966 and 1967 do not show an adequate rate of return. This is particularly true with respect to the Norfolk Southern Railway.

Testimony was also offered with view of proving that the present rates on pulpwood and wood chips are compensatory and that these commodities are now bearing their proper share of the transportation burden. The rates now applicable on these commodities moving in North Carolina intrastate commerce are based on a depressed scale of rates referred to as the modified Roanoke Rapids scale of rates, and no good reason has been shown for excepting the commodities from the proposed increases.

The Commission has carefully reviewed the voluminous evidence and testimony placed in the record by protestant paper companies without finding anything therein which leads it to find pulpwood and wood chips should be relieved from bearing their proportionate share of the increased revenue needs of rail carrier respondents.

In a general rate case, when it is proven that there is a need for additional earnings to provide an adequate rate of return, as in this case, then all shippers should bear their

fair share of the increases in rates required to meet the revenue needs of the rail carriers.

15. The increases here in issue, except those proposed for application on shipments of sand, gravel, crushed stone, and related commodities as hereinbefore described, have been shown to be just and reasonable.

16. Respondents have agreed that if the increase sought in this proceeding on cement is approved they will abate or remove the increase now applicable on cement moving in North Carolina intrastate commerce under Tariff of Increased Rates and Charges X-256.

CONCLUSIONS

Upon consideration of the record in this proceeding, including the extensive evidence and testimony adduced at the four day hearing and the foregoing findings of fact, we conclude that respondents have shown a need for additional revenues and that with the exception of the increases proposed for application on shipments of aggregates as hereinbefore described have borne the burden of proving that the proposed increases are required in order for the rail carriers to continue to perform adequate and efficient transportation services for the shipping and receiving public of the State and that said increases, subject to the exceptions hereinbefore noted, should be allowed to become effective. The separation of North Carolina intrastate service meets the minimum requirement established in Utilities Commission v. State, 243 N.C. 685 (1956).

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Order of Suspension in this docket dated March 13, 1969, be, and the same is hereby vacated, for the purpose of allowing the suspended increase in rates and charges as embodied in Supplement S-15 to Tariff of Increased Rates and Charges X-259-B to be made effective on North Carolina intrastate traffic, said tariff to supersede and cancel the provisions of Tariff of Increased Rates and Charges X-259-A insofar as same is now applicable on North Carolina intrastate traffic under the provisions of the Order of this Commission dated February 18, 1969, in Docket No. R-66, Sub 56, Interim Increases on North Carolina Intrastate Traffic, except to the extent hereinafter ordered.

2. That the proposed increases in rates on sand, gravel, crushed stone, and related commodities, as hereinbefore described, be and the same are hereby denied, but the increases on those commodities set forth in Finding of Fact 13 are authorized and may be made effective.

3. That simultaneously with the effectiveness of the proposed increase in the rates on cement, respondents shall arrange through appropriate tariff publication to abate the

increase on that commodity applicable under the provisions of Tariff of Increased Rates and Charges X-256, as amended, to the same extent that said increase has been abated and its application removed as to interstate rates and charges.

4. That publication in accordance herewith may be made effective September 8, 1969, on one (1) day's notice to the Commission and the public, but same shall in all other respects comply with the Commission's rules governing the construction, posting, and filing of tariff schedules.

5. That upon publication having been made in accordance with the provisions of this Order, this proceeding be discontinued, and same is hereby considered as discontinued.

6. That all parties to the proceeding and counsel of said parties shall be furnished a copy of this Order by U.S. First Class Mail.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of August, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. WU-75

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
The Western Union Telegraph Company) ORDER GRANTING
Rate Increase Application) RATE INCREASE

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on March 19, 1969, at 10:00 A.M. and continued hearings held on August 27, 1969, at 9:30 A.M.

BEFORE: Commissioners John W. McDevitt (Presiding), M. Alexander Biggs, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Thomas A. Banks
Attorney at Law
934 Insurance Building
Raleigh, North Carolina

Kenneth F. Yates
The Western Union Telegraph Company
60 Hudson Street
New York, New York

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney
Ruffin Building
Raleigh, North Carolina

McDEVITT, COMMISSIONER: This matter came on for hearing before the Commission upon the filing by The Western Union Telegraph Company of its proposal to increase its intrastate rates and charges. Revised tariffs were filed on November 11, 1968, with effective date on statutory notice of December 11, 1968, and the Commission concluding that the proposed increase in rates affected the public interest suspended the tariffs until August 31, 1969, and set them for investigation in order to determine whether the increased rates were just and reasonable. This matter was set for hearing on March 11, 1969, in the Commission Hearing Room, Raleigh, North Carolina, and was held at that time.

At the conclusion of the evidence, the Commission allowed the parties thirty (30) days after the mailing of transcripts to submit briefs. The transcripts were mailed on March 19, 1969, and on April 4, 1969, The Western Union Telegraph Company filed a motion to reopen the hearings for the limited purpose of further evidence concerning a fair

value study of the Company's plant, and requested that the matter be continued to a later date.

The Commission, in its discretion, ordered that the case be reopened and that the matter be continued until June 5, 1969. Subsequently, on May 15, 1969, the Company filed a motion requesting that the scope of the case be further expanded to allow the Company to present actual operational data for the calendar year 1968, such information not being available at the time of the original hearing date. The Company further requested in its motion that the hearing be continued until a day on or after July 8, 1969, and stipulated to extend the suspension of the tariffs for a period of time equal to the time from June 5, 1969, to the date that the suspension expires, which date, according to the Commission's Order of December 3, 1968, is August 31, 1969.

The Commission, in its discretion, granted the Company's motion and continued the hearing until August 27, 1969, and further broaden the scope of the hearing to include further evidence of the Company's operational data for the calendar year 1968. Based upon the stipulation by the Company, the Commission suspended the filed tariff up to and including the 23rd day of November, 1969. The continued hearing was held in the Commission Hearing Room, Raleigh, North Carolina, on August 27, 1969, at 9:30 o'clock A.M.

The Company's evidence at the March hearing showed a study period ending on December 31, 1967, a deficit on its North Carolina intrastate operations of $16,474, and the exhibits further showed that after taking into consideration the effect of increased wages due to the labor contracts and other adjustments, the operating results up to and including October 31, 1969, using the present rates would show a deficit of $116,507. The Company's evidence projected that the proposed tariff increases would increase operating revenues in the amount of $287,600 which would give a projected intrastate rate of return of 9.3%. Included in the projected revenues was a 6% growth factor. Company witness Grazino testified that North Carolina had been a growth state for the past five (5) years. The witness further testified that system-wide the Company was declining in its message revenues.

At the resumed hearing in August, 1969, the Company introduced revised exhibits since at that time they had the final results for year ending December 31, 1968. Based upon the 1968 figures, the Company showed a deficit of $96,532 at the present rates. The Company's exhibit, Schedule C-2, showed that the Company only projected $189,575 of additional revenues if the proposed rates are allowed to go into effect. This is less than the earlier figure of $287,600. Company witnesses testified that since the earlier hearing, they had reconsidered the matter and were of the opinion that there would not be a growth rate of 6%

and that the majority of the differences between these two figures was the elimination of the 6% growth rate factor.

The Company's exhibits at the August hearing showed that instead of the 9.3% rate of return on net book investment projected in the earlier hearing, the Company only projected a .92% rate of return on net book investment on its intrastate operations if the proposed rates are allowed to go into effect.

Upon consideration of the entire record, the evidence and testimony presented and received during the course of the hearing, the Commission makes the following

FINDINGS OF FACT

(1) That The Western Union Telegraph Company is a corporation duly organized and existing under the laws of the State of New York with its principal office at 60 Hudson Street in the City and State of New York, and is engaged in the business of offering communication service by telegraph and radio throughout the United States.

(2) That the applicant proposes to increase the charges on prepaid public and government messages and on public and government collect messages. Applicant also proposes to increase money order charges approximately 10% and to establish a simplified rate structure for telegram services consisting of telegrams and overnight telegrams as compared with the present full rate day letter and night letter telegrams.

(3) That the proposed increase is designed to produce $189,575 to additional gross revenues, of which $189,575 shall be accrued to the Company's use.

(4) That the books and records of the applicant are kept on an original cost basis according to the uniform system of accounts.

(5) That the Company offered evidence to show that the original cost, North Carolina rate base, is $1,122,000, which includes research and development in progress, materials and supplies and cash working capital in the amount of $156,000.

(6) That the Company's evidence showed that the fair value of its allocated North Carolina utility plant was arrived at by trending of original cost by the use of Gross National Product Deflator and Consumer Price Index.

(7) That the Commission finds the fair value of the applicant's property, used and useful in providing intrastate telegraph service in North Carolina, was $1,165,000 as of December 31, 1968.

(8) That the applicant's pro forma gross revenue that could be derived from intrastate services for the calendar year ending December 31, 1968, is $1,201,827. Operating expenses including pro forma adjustments as reported on applicant's revised Exhibit 5, Schedule C-2, amounted to $1,191,483. The pro forma operating income amounted to $10,344 and provides a rate of return on fair value of approximately .89%.

(9) That the use of the present rates charged by the applicant show an operating loss and are unjust and unreasonable and do not allow a reasonable rate of return.

CONCLUSIONS

The Commission is guided by statute with the responsibility of determining the fair value of the applicant's property used and useful in rendering service and producing revenues and to provide for rates which will enable it to earn a fair rate of return on such fair value. We are aware of the fact that the cost of construction of facilities necessary to furnish the type of service that the applicant engages in rendering service has also increased.

While both original costs and replacement values of the Company's utility property in North Carolina have been considered, we conclude that neither constitutes a proper rate base. We have, therefore, arrived at our own independent conclusion without reference to any specific formula as to the fair value of the Company's property. We have found that the fair value of the applicant's property used and useful in its intrastate telegraph services in North Carolina to be $1,165,000.

The rates and charges it proposes to make effective for those telegraph services will enable the Company to pay its own operating expenses, meet its obligations and have some $10,344 in net operating income for return on its North Carolina intrastate operations. The rate of return is determined by the application of the net operating income to the rate base. The proposed rates will enable the applicant to earn a return of .89% on the determined fair value rate base.

The Company presented evidence in the March, 1969, hearing which showed a projected intrastate rate of return of 9.3%. This rate of return was proformed based upon the proposed rates plus an approximate 6% growth factor of telegraph service in North Carolina intrastate service. These figures were based upon the 1967 operating results which were the latest figures the Company could use at that particular time. At the resumed hearing in August, 1969, the Company showed that the rate of return based upon original cost rate base would only be .92% if the new rates were allowed to go into effect. The reason the Company gave for this is the fact that the operating results ended December 31, 1968, showing an increase in operating expenses. The Company's

evidence also showed that the Company now felt like a 6% growth rate was unrealistic since the growth rate of telegraph service system-wide was on a decline and had been for many years. Company witness Grazino testified that even if the 1969 growth rate factor was included in the pro forma adjustments, the rate of return based upon an original cost rate base would be only 5.7%. The rate of return would be less than 5.7% basing these figures upon the fair value rate base as found by the Commission. Therefore, even if we include a growth rate factor in the pro forma adjustments, the resultant rate of return would be within the range found acceptable by the Commission.

We, therefore, conclude that the rates and charges heretofore filed by The Western Union Telegraph Company and under investigation in this Docket are just and reasonable and should be allowed to become effective on October 10, 1969.

IT IS, THEREFORE, ORDERED that the tariff schedule herein under investigation by the Commission Order of December 3, 1968, be approved and permitted to become effective on October 10, 1969, said rates and charges to be filed with this Commission prior to that date.

IT IS FURTHER ORDERED that the Commission Order of Suspension and Investigation dated December 3, 1968, be and the same is hereby vacated and set aside.

ISSUED BY ORDER OF THE COMMISSION.
This the 25th day of September, 1969.

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

DOCKET NO. P-95

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Anserphone of Goldsboro, Incorporated, for a Certificate of Convenience and Necessity to Operate as a Common Carrier in Intrastate Communications Providing Mobile Radio Service with Interconnection with Existing Telephone Service and One-way Paging Service) ORDER

HEARD IN: The Commission Hearing Room, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on May 6, 1969, at 10:00 A.M.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten (Presiding)

APPEARANCES:

For the Applicant:

Ted R. Reynolds
Reynolds & Farmer
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina

For the Commission Staff:

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

WOOTEN, COMMISSIONER: Anserphone of Goldsboro, Incorporated, 412 East Ash Street, Goldsboro, North Carolina, filed an application on January 2, 1969, for authority to provide mobile radio service with interconnection with land-line telephone service. The Applicant seeks a Certificate of Public Convenience to operate as a common carrier in intrastate communications providing mobile radio service with interconnection with existing telephone service, to serve the area in and around the City of Goldsboro, North Carolina.

This matter was set for hearing on March 20, 1969, but upon request of the Applicant was continued until May 6, 1969. Public notice of the hearing was published in the Goldsboro News - Argus, a newspaper having general circulation in the City of Goldsboro and the area which the Applicant intends to operate.

Pursuant to said notice, the application came on for hearing at the time, place and date stated, and the Applicant at the hearing offered testimony by its two

stockholders (Ferebee L. Patterson, Alfred W. Griffin, Jr.) and eleven other public witnesses in support of the application. No formal protests were filed and there were no protestants present at the hearing to oppose the granting of the certificate.

Based upon the records of the Commission and the evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

(1) That, if granted a Certificate of Convenience and Necessity, Anserphone of Goldsboro, Incorporated, will provide mobile radio service with the interconnection with existing telephone service and will construct a radio base station at 412 East Ash Street, Goldsboro, North Carolina, with a height at the tip of antenna being approximately 195 feet above ground level and with the base station transmitting frequency of 152.18 MHz and a mobile frequency of 158.64 MHz.

(2) That the proposed service will be authorized to serve 50 subscribers and 10 dispatch stations. That the primary service area is a 30-air mile radius of the base station and includes the Counties of Wayne, Lenoir, Greene, Wilson and portions of Johnston, Sampson, Duplin and Pitt. The service area of this base station will have an overlap with existing carriers in Smithfield and Kinston.

(3) That, if granted a Certificate of Convenience and Necessity, Anserphone of Goldsboro, Incorporated, will immediately file this certificate with the Federal Communications Commission and request that Channel 11 be furnished to it.

(4) That the Applicant proposes to transmit messages from transmitter to its subscriber customers and further to transmit messages from its subscriber customers and also proposes to interconnect its radio subscribers with land-line telephone system of Southern Bell Telephone & Telegraph Company. In addition, the Applicant also proposes to offer tone only and tone plus voice radio paging service to the public in the area covered by this application.

(5) That the proposed service is not provided in the Goldsboro telephone exchange at the present time. That in the remainder of the proposed service area there is no identical service available, with the exception of possible overlap with existing carriers in Smithfield and Kinston.

(6) That there is a need for such service in the Goldsboro area and there has been considerable demand made for this service by the public in the Goldsboro area.

(7) That the applicant has negotiated with Southern Bell for an interconnection of its facilities with Anserphone of Goldsboro, Incorporated, and Applicant has good cause to

believe that Southern Bell will interconnect its facilities in order that Applicant may provide this service that Applicant proposes to offer to its customers.

(8) That Ferebee L. Patterson is one of the two stockholders of Anserphone of Goldsboro, Incorporated, and is presently operating the same type service in Raleigh, Durham, and High Point.

(9) That the Applicant proposes to charge its subscribers for mobile telephone service $33 per month which includes 40 minute free call time per month and an additional 15 cents per minute for all call time over the 40-minute period. The Applicant also proposes to charge $22.50 per month for its radio paging service.

(10) That the Applicant is fit, financially able and otherwise qualified to furnish and operate the facilities to provide the service for which authority is sought in this application.

CONCLUSIONS

The Applicant in this proceeding seeks a Certificate of Convenience and Necessity to operate mobile radio service in intrastate communications and further to interconnect its facilities with the land line telephone system of Southern Bell Telephone & Telegraph Company which serves Goldsboro and the surrounding area.

The Applicant is a corporation of which Ferebee L. Patterson is one of the two stockholders in the corporation. Ferebee L. Patterson is presently operating a similar type service in Raleigh, Durham, and High Point. He has operated systems similar to the one in this application since 1962. The mode of operation is for the Applicant to install suitable equipment in a location within the territory to be known as "answering service". This service will have a telephone and subscribers to applicant's service will be able to contact answering service which in turn will relay messages by telephone and those desiring to contact Applicant's subscribers will contact answering service by phone and have their message relayed to the subscribers. With telephone interconnection, the person operating the answering service may, upon calls from subscribers, connect them directly with outside telephone and upon calls from persons outside desiring to contact Applicant's subscribers, may in turn connect them to the subscribers.

Eleven witnesses living in and around the area of Goldsboro testified that there is a need for this type service and the majority of these testifying said that they would subscribe to the service if it was offered.

The Commission concludes that this service proposed to be rendered is a communications service within the purview of the definition of a public utility in North Carolina found

in G.S. 62-3(23)(a)(6) and the Applicant in rendering said service will be a public utility and subject to the provisions of the utility regulatory law.

The Commission also concludes that public convenience and necessity for the proposed service has been shown; that Applicant is financially and otherwise fit and able to furnish such service, and that a certificate of convenience and necessity should be granted to the Applicant in this case.

IT IS, THEREFORE, ORDERED that Anserphone of Goldsboro, Incorporated, be granted a Certificate of Convenience and Necessity, as authorized under Chapter 62 of the General Statutes of North Carolina, to provide mobile radio common carrier service with interconnection with existing land line telephone service within the City of Goldsboro and a 30-air mile radius and to also provide a tone only and a tone plus voice radio paging service.

IT IS FURTHER ORDERED that the Applicant within 30 days of the issuance of this order file with the North Carolina Utilities Commission a tariff setting forth the proposed rates, charges and rules applicable to its North Carolina intrastate communications services herein authorized and that the Applicant keep its books and records in such manner as is provided by the Uniform System of Accounts for communication companies.

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of May, 1969.

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

DOCKET NO. P-93

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Office Communications Company for) ORDER
Authority to Operate a Radio Paging Service in)
Winston-Salem and Forsyth County, North Carolina)

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on May 8, 1969

BEFORE: Commissioners Clawson L. Williams, Jr. (Presiding), M. Alexander Biggs, Jr., and John W. McDevitt

APPEARANCES:

For the Applicant:

F. Kent Burns
Boyce, Burns & Smith
Attorneys at Law
P. O. Box 1406, Raleigh, North Carolina

For the Protestant:

Ted R. Reynolds
Reynolds & Farmer
Attorneys at Law
910 Wachovia Building
Raleigh, North Carolina
For: Services Unlimited, Inc.

For the Intervenors:

Thomas W. Steed, Jr. and
Arch T. Allen, III
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
For: Tarheel Association of Radiotelephone Systems, Inc.

WILLIAMS, COMMISSIONER: By application filed with the Commission on August 20, 1968, Office Communications Company, 614 Nissen Building, Winston-Salem, North Carolina, seeks a Certificate of Public Convenience and Necessity to provide radio paging in Winston-Salem and Forsyth County, North Carolina.

By Order of September 4, 1968, the matter was set for hearing on November 1, 1968, and Notice of Hearing was required to be published. Petition to Intervene was filed by Tarheel Association of Radiotelephone Systems, Inc. on October 22, 1968 and on October 21, 1969, by Services Unlimited, Inc. On October 24, 1968, Order was entered allowing petitioners to intervene.

Upon motion of Applicant filed on October 28, 1968, the Commission ordered the matter continued until January 23, 1969. By Order of December 23, 1968, the Commission continued the case until March 13, 1969. On March 12, 1969, the Commission, upon motion of the applicant, ordered the case continued until the time shown in the caption.

From the material, substantial and competent evidence adduced at the hearing the Commission makes the following

FINDINGS OF FACT

1. The Applicant is a North Carolina corporation engaged in the business of providing a telephone answering service

for its customers in the City of Winston-Salem and in Forsyth County, North Carolina. The customers of said telephone answering service, in general, are persons who cannot be reached directly by telephone because they are off and away from their telephone base stations. Such customers desire that the applicant's answering service notify them wherever they might be that a telephone message has been received for them.

2. In order to provide the full service desired by the customers of the telephone answering service, the Applicant proposes to install and offer to its customers a radio paging service. Each customer desiring such radio paging service will be furnished with a radio receiver upon which a tone signal will be received and upon which a one-way verbal message can be given from the office of the Applicant to the subscriber. Applicant has received requests from more than 50 of its telephone answering service subscribers for this radio paging service.

3. Applicant proposes to offer telephone answering service and radio paging as an integrated operation and the same employees who operate the telephone answering boards will also operate the radio controls and relay via radio messages received for subscribers via telephone. Applicant has no intention and does not seek to engage in the mobile telephone field and does not seek to duplicate the services of the Protestant, Services Unlimited, Inc., which have been authorized by this Commission.

4. Applicant is ready, willing and financially able to provide the service described herein and will be able to provide the service within a reasonable time after receiving the approval of the Federal Communications Commission.

5. Convenience and necessity of the public served by the applicant in its telephone answering service, approximately 300 customers, requires radio paging service as an incident to and adjunct of its telephone answering service.

6. That Protestant, Services Unlimited, Inc., holds authority issued by this Commission in Docket No. P-91 to provide mobile telephone service in the area involved herein and is authorized to provide radio paging service wholly incident to mobile radio service by the Order issued in said docket. Protestant also operates a telephone answering service similar to that of applicant and in addition thereto operates and provides radio paging service as a supplement to its telephone answering service. Protestant contends that it is authorized by its Certificate to provide this radio paging service in connection with its telephone answering service and Protestant further contends that its Certificate constitutes an exclusive franchise for the area involved to provide such paging service, and that it is ready, willing and able to provide such paging service as is sought to be offered by the applicant.

7. Applicant contends that Protestant, Services Unlimited, Inc. is authorized to provide radio paging service under its authority wholly incident to its mobile radio telephone service and that Protestant holds no authority nor franchise from this Commission to operate a radio paging service incident to its telephone answering service.

8. That telephone answering service is not a public utility within the purview of G.S. 62-3(23). Radio paging service when used solely in the extension of telephone answering service is a mere incident of and supplement to telephone answering service and under G.S. 62-3(23), is not a public utility.

9. That the operation of Radio Paging Service, solely and wholly as an incident of and supplement to telephone answering service, is exempt from the regulation and jurisdiction of this Commission.

Based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

The authority for which Applicant seeks a Certificate of Public Convenience and Necessity is completely distinct and different from the authority to operate mobile radio telephone communications which have been held to be subject to the jurisdiction of this Commission. Utilities Commission vs. Carolina Telephone and Telegraph Company, 267 N.C. 257 (1966). The fact that the Commission has included radio paging service in some radio common carrier certificates, such as the one held by Protestant, Services Unlimited, Inc. as an "incident" to radio telephone service does not mean that all radio paging operations fall within the purview of radio telephone service offered by radio common carriers. The fact that radio paging service may be an incident to radio telephone service which is subject to regulation does not mean that radio paging service cannot also be an incident to telephone answering service which is unregulated. Under the operation as proposed by the Applicant for radio paging to come into play there has to be a telephone call. The message is received by the telephone answering service. It would then be relayed by telephone if the subscriber were accessible to his phone, if not it can then be relayed by radio paging. It then becomes a supplementary part of the telephone answering service enabling the answering service to consummate and deliver the message it received by telephone.

Telephone answering service is not a public utility and is not regulated. Utilities Commission vs. Two-Way Radio Service, Inc., 272 N.C. 591, at 602 (1967). No Certificate of Public Convenience and Necessity is required as a prerequisite of rendering such a service. The issuance of a Certificate for supplying of telephone services gives the

holder no exclusive or preferential right to provide a telephone answering service or a message relaying service. Utilities Commission vs. Radio Service, Inc., supra.

To regulate radio paging when used solely as a supplement to telephone answering service would be, in effect, to regulate telephone answering service and compel telephone subscribers to take answering service only from the party certified to provide radio paging and would grant an unfair competitive advantage to such certificated party over its competitors in the telephone answering service business. The answering service subscribers of the uncertificated answering service will be compelled to take radio paging service from a different company. This would involve an extra telephone call from the uncertificated answering service to the certificated radio paging service resulting in additional delay and possibility of error in the transmission of messages in a business where, frequently, time is of the essence and accuracy of messages is very important. Naturally, eventually, the subscriber desiring radio paging service will transfer his telephone answering business to the telephone answering service holding a certificate to provide radio paging even though he might prefer the telephone answering service of the uncertificated party. We do not believe that G.S. 62-110 which requires a Certificate of Public Convenience and Necessity was intended to require or permit use of a certificate to gain an advantage in an unregulated business such as a telephone answering service.

It is, therefore, the conclusion of the Commission that radio paging service when used solely as an extension of and supplement to the telephone answering service business is an integral part of the unregulated telephone answering business and in such manner of usage is not subject to the regulation of this Commission and is exempt from its jurisdiction and

IT IS, THEREFORE, ORDERED That the operations proposed by the Applicant herein to provide radio paging service solely as an extension of and incident to telephone answering service is exempt from the jurisdiction of this Commission and this Order shall operate as a Certificate of Exemption for the provision of such service and Applicant is authorized to proceed with the provision of such service upon obtaining proper license and approval from the Federal Communications Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

DOCKET NO. P-16, SUB 86

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of The Concord Telephone Company For the) ORDER
Determination and Establishment of Reasonable Rates)
and Charges)

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on February 18, 1969 at 10 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt, Clawson L. Williams, Jr., M. Alexander Biggs, Jr., and Marvin R. Wooten

APPEARANCES:

For the Petitioner:

Eugene T. Bost, Jr., Esq.
Ronnie A. Pruett, Esq.
201-204 Cabarrus Bank and Trust Company Building
Concord, North Carolina 28025

John R. Boger, Jr., Esq.
Williams, Willeford & Boger
147 Union Street, South
Concord, North Carolina 28025

For the Using and Consuming Public:

George W. Goodwyn, Jr., Esq.
Assistant Attorney General
Justice Building
Raleigh, North Carolina 27601

For the Commission Staff:

Edward B. Hipp, Esq.
Commission Attorney
Raleigh, North Carolina 27602

Larry G. Ford, Esq.
Associate Commission Attorney
Raleigh, North Carolina 27602

WILLIAMS, COMMISSIONER: This cause comes before the Commission on petition of The Concord Telephone Company filed on August 29, 1968, (amended on October 14, 1968), pursuant to G.S. 62-133 and Commission Rule R1-17 for approval of an adjustment in its monthly rates, for the extension of the base rate areas for certain exchanges, for the establishment of exchange rate groups based on calling

scope, and for the reduction of mileage charges outside base rate areas.

The Commission by Order issued October 22, 1968, set public hearings on the Petition for February 18, 1969, directed publication of notice in newspapers of general circulation in Petitioner's service area for three successive weeks in November, 1968, and prescribed the form of said notice to be published. The Commission also directed its Accounting Staff to make an examination of Petitioner's operations. Petitioner gave the prescribed notice and, thereafter, the Commission received informal letters from Petitioner's subscribers. They were mostly from subscribers in Petitioner's Harrisburg exchange, primarily seeking extended area (toll free) service between Petitioner's Harrisburg exchange and the Charlotte exchange of Southern Bell Telephone and Telegraph Company. The provision of this service has been under study for some time between the two companies at the request of the Commission, interim reports have been filed, and further reports are to be filed. Since it involves companies and subscribers in addition to The Concord Telephone Company and its subscribers, this matter is to be resolved separately from this proceeding in accordance with established procedures for the purpose.

The Attorney General intervened in the proceedings and presented witnesses dealing primarily with the foregoing request for extended area service. This testimony will be considered in accordance with the established procedure for considering extended area service proposals as aforesaid.

Other than as recited, no formal protests to approval of the Petition were made either before or during the hearing and no substantial service complaints directly attributable to The Concord Telephone Company or its facilities were offered in the proceedings.

The Petition was heard on February 18, 1969, as scheduled by the Commission, with parties and counsel already named participating and with the burden of proof upon Petitioner to establish, by the greater weight of the evidence, the allegations and contentions contained in its amended Petition.

The competent, material, and substantial evidence, and the greater weight thereof, justified the following

FINDINGS OF FACT

1. Petitioner, The Concord Telephone Company, is a corporation duly created and existing under the laws of North Carolina, with its principal office at 68 Cabarrus Avenue, East, Concord, Cabarrus County, North Carolina.

2. Petitioner is the owner and holder of, and operates under, a Certificate of Public Convenience and Necessity

issued by this Commission authorizing it to furnish, and it furnishes, a general telephone and communications service through facilities owned by it in the cities, towns, and communities of Concord, Kannapolis, Mt. Pleasant, Harrisburg, Albemarle, Badin, Oakboro, New London, China Grove and Landis, and their rural environs. Said telephone and communications service is offered and provided to the public for compensation.

3. Petitioner is a public utility as defined by G.S. 62-3(23)a.6; the communications services provided the public by Petitioner, and the rates and charges for said services, are subject to the jurisdiction of this Commission, which has jurisdiction over the subject matter of the Petition.

4. Petitioner was last permitted by this Commission to make a general increase in its rates and charges by Order entered on August 7, 1957, at which time the fair value of Petitioner's property was determined to be $5,860,675; Petitioner has rapidly expanded and improved its plant since said date and is continuing to expand and improve its facilities and service at a rapid rate; Petitioner's plant investment increased about 300% in the ten years following 1957 and its number of telephone stations increased by 170%. Petitioner has made two or more reductions in its toll rates since 1957 and has likewise extended its base rate areas, resulting in reduced mileage charges, and provided extended area - toll free - service among its principal exchanges.

5. Petitioner's total investment at its original cost in utility plant and facilities used and useful in rendering its service at August 31, 1968, the end of the test period, was $19,714,718. The portion of said cost which has been consumed by previous use recovered for accounting purposes by depreciation expense was $4,797,023 at the same time. A large amount of Petitioner's plant which has been fully depreciated for accounting and other purposes is still in use and to be valued as a part of Petitioner's utility plant in service. Petitioner offered evidence that the replacement cost of Petitioner's plant used and useful in rendering utility service as shown by trending of Petitioner's depreciated cost of utility plant to current cost levels is $22,018,411. Petitioner requires a working capital allowance for inclusion in its rate base of not less than $311,445 and has invested $77,540 in utility plant in progress of construction at the end of the test period. Petitioner's plant and facilities are in a good state of repair and maintenance and are rendering adequate and efficient service of generally high quality and value.

6. Petitioner's gross revenues, after accounting and pro forma adjustments for test period examination purposes, were $4,716,376, at August 31, 1968, and would have been $5,523,705 at that time had the rates proposed by Petitioner been in effect during the test period. The rates proposed would have produced $807,329 more in gross revenues during the test year if they had been in effect. Of these

additional gross revenues, Petitioner would have been required to pay 57%, or $470,625 in federal and state income taxes and gross receipts taxes, so that Petitioner would have had the use and benefit of $342,886 in increased revenues on an annualized basis, if the proposed rates had been in effect during the test year. The Company's net income available to pay its interest charges on debt, its preferred stock dividends, its dividends on common stock, and its charges to net worth, were $813,712 for the test year under present rates and would have been $1,156,598 under the rates for which approval is sought. The foregoing estimates of income available under the proposed rates in the test year are substantially larger than the Company would actually experience at the time the rates become effective due to increases in operating expenses, depreciation expenses, interest rates and total amount of interest payable, and due to the necessity to issue additional common stock, all of which have either occurred or are certain to occur.

7. Petitioner's total operating expenses, including depreciation expense and taxes, were $3,917,334 for the test period and are estimated to have been $4,387,959 if the proposal rates had been in effect throughout the test year. The entire difference of $470,625 is due to increases in total federal and state income taxes and gross receipts taxes which automatically follow any increases in gross revenue. The evidence reveals that depreciation expenses are underestimated by approximately $140,000 for the test period and that the totals for other operating expenses, such as the labor and associated pensions and benefits accounts and supplies, have increased substantially since the close of the test period and will be higher at the time approved rates become effective. Except for the fact that the Company's charges for depreciation are low, the Company's operating expenses are reasonable.

8. Both Petitioner's gross operating revenues and its total operating expenses are increasing. Total operating expenses are increasing at a much faster rate than are total operating revenues, with the result that Petitioner is experiencing reductions in its net income for return. The evidence establishes that net income after payment of fixed charges decreased $43,423 in 1967 and $51,600 in the test year. The evidence shows this downward trend is a permanent rather than a temporary trend and that all business economies feasible have been taken by the Company to stop the trend. The downward trend of Petitioner's net income cannot be abated except through rate relief.

9. Under present rates during the test period, Petitioner is earning 1.85 times its interest charges on debt and is earning a return on common equity of 6%. On the basis of the test year and assuming the same capital costs and capital structure as in the test period, it is estimated that Petitioner, if the proposed rates had been in effect, would have earned 2.63 times its interest charges and 13.9%

return on its common equity, which constitutes 29% of its capital structure.

10. Petitioner's reasonable composite cost of capital overall is 4.8%; its anticipated rate of interest on new long-term money is 7-3/4% and its imbedded, or historic, interest rate is 5.3%. Petitioner is earning 5.33% rate of return on its original cost less depreciation, which is very close to the amount the Petitioner is actually paying on a historic basis for the $8,285,500 which it had borrowed August 31, 1968. The Company's present indentures require: (a) 2.5 times interest coverage (before taxes, but including the annual interest on bonds sought to be issued); and (b) property additions through equity as well. Under the proposed rates, had they been in effect during the test period, Petitioner would have been permitted to earn 7.6% on its book cost less depreciation.

11. The present and proposed local exchange rates involved in this proceeding are as follows:

	Concord and Kannapolis Exchanges			
	1-party	2-party	4-party	multi-party
Present Business	$9.60	$ 8.10	$7.10	$7.10
Proposed Business	14.00	10.50	8.50	8.50
Amount of Increase	4.40	2.40	1.40	1.40
Present Residence	4.75	4.25	3.75	3.75
Proposed Residence	7.00	6.00	4.75	4.75
Amount of Increase	2.25	1.75	1.00	1.00
	China Grove - Landis Exchange			
Present Business	8.94	7.44	6.44	6.44
Proposed Business	14.00	10.50	8.50	8.50
Amount of Increase	5.06	3.06	2.06	2.06
Present Residence	4.69	4.19	3.69	3.69
Proposed Residence	7.00	6.00	4.75	4.75
Amount of Increase	2.31	1.81	1.06	1.06
	Albemarle, Badin, Harrisburg, Mt. Pleasant, New London and Oakboro			
Present Business	8.50	7.00	6.00	6.00
Proposed Business	12.50	9.50	7.50	7.50
Amount of Increase	4.00	2.50	1.50	1.50
Present Residence	4.25	3.75	3.25	3.25
Proposed Residence	6.25	5.50	4.25	4.25
Amount of Increase	2.00	1.75	1.00	1.00

12. As a part of the Petition, it is proposed to enlarge the areas in which primary service is to be offered without mileage charges for the exchanges at Concord, Kannapolis, China Grove - Landis, and Harrisburg, as reflected on maps received in evidence in the proceeding. This proposal would

have the effect of eliminating mileage charges for a number of customers outside the base rate areas as presently drawn and of reducing the mileage charges for subscribers beyond the base rate area as extended. Petitioner likewise proposes to reduce its present rural mileage charges (63 cents per quarter mile for 1 party service; 32 cents per quarter mile for 2 party service; 16 cents per quarter mile for 4 party service; and 25 cents flat charge for multi-party service 2-4 miles from the base rate area and 25 cents for each 2 miles thereafter) by the establishment of zone rates outside base rate areas as follows:

1 party service - $1.00 per one airline mile zone
2 party service - $ .60 per one airline mile zone
4 party service - not to be offered
5 party service - $ .40 flat extra charge any point within exchange area beyond base rate area.

The revenue effect of the foregoing proposals is to reduce the amount Petitioner receives from mileage charges by $52,000 annually based on the test period and to stimulate requests for regrades which will require the Company to raise additional improvements capital at higher cost and without balancing increases in revenue associated therewith.

13. Petitioner proposes that rate groups be established for its exchanges based on calling scope as follows:

Exchange Group	Main Stations & PBX Trunks
I	Less than 5,000
II	5,001 - 15,000
III	15,001 - 25,000
IV	25,001 - 35,000
V	35,001 - 45,000

The foregoing rate groups are established on the same basis and are consistent with rate groups established for other telephone companies by the Commission. No exchange would automatically move from one group to another, up or down. Rather, as the telephone population of a group outgrew, or fell beneath, a 5% band in the bracket for the group, the Company would give notice to the Commission and to the affected subscribers that they would be subject to placement in the appropriate group at a particular time. The Commission or affected subscribers would have opportunity to be heard on any new question then raised. The foregoing rate groups have sufficient margin within them that no exchange will be subject to reclassification among groups, up or down, within the near future. The establishment of rate groups as proposed has no revenue effect other than to spread the Company's total revenue burden among its exchanges on the basis of the greater number of telephones available without toll.

14. Petitioner also proposes minor adjustments in general service charges for directory listings, the so-called "starlite" telephone, manual PBX, headsets, special circuits, etc. The net revenue effect of these increases and decreases is to produce approximately $2,700 additional revenue annually based on the test period.

15. The Concord Telephone Company is a comparatively small, well-managed, closely held, locally owned, company. Its stock is not freely traded and it does not have available funds provided by a parent company or through the Rural Electrification Authority. Petitioner is in competition for capital funds with companies whose bonds are rated, with Building and Loan Associations, Banks, and other similar risk businesses. For the foregoing reasons, the Concord Telephone Company's cost of capital is comparatively high and it requires comparatively high earnings and interest coverages in order to attract the capital it needs to meet expanded service needs and make required improvements.

CONCLUSIONS

Petitioner has been and still is in a program of expanding and improving its facilities for the rendition of communications service. Since 1957, its last general rate increase, Petitioner has increased its investment in plant by about 300%. It has invested large sums of money derived from the sale of preferred stock, common stock, and bonds and loans to be financed by long-term mortgage. While Petitioner's revenues and customers have also greatly increased, its revenues have by no means increased commensurate with its increases in operating expenses and the costs of what it must pay for the capital it has obtained and invested. In fact, the uncontradicted evidence of record shows that if the rate of return which Petitioner was earning at August 31, 1968, the end of the test period used, is required to remain constant, it will have the effect of confiscating Petitioner's property. At the least, such a requirement would nullify Petitioner's capacity to compete on the open market for expansion and improvement capital and jeopardize the security of its capital already invested. As a result, not only the Company, but its subscribers as well, would suffer for the Company's expansion and improvement program would halt, its existing plant would deteriorate, and its present high standards of service would fall.

The General Assembly of 1963 enacted G.S. 62-133, which codified existing case law and very precisely defined the Commission's duty and responsibility in general rate cases. The essence of the required statutory procedure is fairness to the utility, its customers, and existing investors. In following the Statute the Commission is not permitted to apply any specific formula, but it is required to fully consider and weigh current costs, i.e., the effects of inflation in valuing the Utility's property, and to allow -

not guarantee - a rate of return on the present fair value of the Utility's property which "will enable it by sound management to produce a fair profit for its stockholders, considering changing economic conditions and other factors, as they then exist, to maintain its facilities and services in accordance with the reasonable requirements of its customers in the territory covered by its franchise, and to compete in the market for capital funds on terms which are reasonable, and which are fair to its customers and to its existing investors." G.S. 62-133(b)(4).

The North Carolina Supreme Court in the landmark case of Utilities Commission v. Southern Bell Telephone and Telegraph Company, 239 N.C. 333, stated:

> "Necessarily, what is a 'just and reasonable' rate which will produce a fair return on the investment depends on (1) the value of the investment -- usually referred to in rate-making cases as the Rate Base -- which earns the return; (2) the gross income received by the applicant from its authorized operations; (3) the amount to be deducted for operating expenses, which must include the amount of capital investment currently consumed in rendering the service; and (4) what rate constitutes a just and reasonable rate of return on the predetermined Rate Base ...."

The Supreme Court further said in the foregoing case that the adoption by the Commission of book value, or cost less depreciation, as a utility's rate base is in conflict with the express terms of the statute, the Court further saying:

> "The Legislature, in using the term 'value' ... had reference to the value of the property ... actually in use and will continue in use until it becomes obsolete or outworn ...."

In the determination of a fair and reasonable rate of return for public utilities, the Commission must consider the particular utility before it in the context of the economics of the time it is before it. This is not an exact mathematical science, but is a matter of the Commission's best and fair judgment based on the facts and circumstances applicable to the particular utility under consideration at the time the "rates are to be effective" Utilities Commission v. Piedmont National Gas Company, 254 N.C. 536.

One of the clearest and most generally applied statements of the judgment to be used in determining a fair rate of return is:

> "Under normal conditions a number of factors, if shown by the evidence may be considered in determining a fair rate of return: (1) the amount necessary to assure confidence in the financial structure of the Company and to maintain its credit standing; (2) the payment of dividends and interest; and (3) the amount of the

investment, the size and nature of the utility, its risks, and the circumstances attending its origin, development and operation." City of Pittsburgh v. Pennsylvania Pub. Utility Commission, 16 PUR3d 319; 126 A2d 777.

Having carefully weighed the evidence in light of applicable law, it is the Commission's opinion, determination, and judgment that: (1) The fair value of the property of The Concord Telephone Company used and useful in providing the service rendered to the public in this state, considering the reasonable original cost of the property, the replacement cost of the property, the present state and condition of the property, the purpose for which used, applicable book depreciation reserves and the quality and value of the service rendered by said property, is not less than $16,650,000; (2) A rate of return on the fair value of The Concord Telephone Company as will enable it by sound management to produce a fair profit for its stockholders, considering changing economic conditions, The Concord Telephone Company's historic, current, and probable future cost of capital, capital structure, and the amount and ratio of sources of capital, the condition and efficiency of its management, the size and nature of the Company, its risks and the circumstances attending its origin, development, operation, its expansion and improvements and its probable future expansion and improvements, the amounts needed to maintain its facilities and services in accordance with the reasonable requirements of its customers in the territory covered by its franchise, and to compete in the market for capital funds on terms which are reasonable and which are fair to its customers and to its existing investors is 6.6%; (3) the presently authorized rates and charges of The Concord Telephone Company are unreasonably and unjustly low and produce revenues that are inadequate to enable Petitioner to meet all its operating expenses, including taxes and depreciation, meet its fixed charges and other costs of capital, pay its dividends, allow for surplus, maintain its credit, attract new capital, and, in general, earn a fair rate of return; (4) The rates and charges herein approved and shown on Appendix A hereto attached including the extension of base rate areas, the reduction of mileage charges through establishment of zone charges, the establishment of rate groups based on calling scope as proposed by the Company are just and reasonable and will permit the Company, under continued sound management to earn sufficient revenues to pay all its reasonable operating expenses, including depreciation and taxes, and have enough left over to meet its cost of capital and provide a fair profit for its stockholders and, in general, earn a fair rate of return on its utility property investment and value. The rates herein approved should yield to the company, according to test period figures, additional gross revenues of $671,505 annually, resulting in a net income for return of $1,098,900, a net increase of $285,188. These figures will produce a return on common equity capital of 12.60%. The rates allowed will provide the company with 81.68% of the increase sought by the applicant.

IT IS, THEREFORE, ORDERED:

1. That the application in this docket be and it is hereby approved consistent with this Order. In all other respects, the application is disapproved.

2. Applicant, The Concord Telephone Company, is authorized to file and make effective on all billings rendered on and after June 1, 1969, its tariffs in accordance with all rates and charges contained in Appendix A attached and incorporated herein and extending the base rate areas as proposed. Mileage and zone charges as proposed and herein approved shall be made applicable to the rates and charges hereby approved and authorized.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of May, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

APPENDIX "A"

THE CONCORD TELEPHONE COMPANY

Docket No. P-16, Sub 86

MONTHLY RATES

COMPANY-WIDE RATE SCHEDULE

Exchange Group	Main Stations & PBX Trunks	Business 1	Business 2	Business 4	Business 5
I	Less than 5,000	11.00	8.50	6.75	6.75
II	5,001 - 15,000	12.50	9.50	7.50	7.50
III	15,001 - 25,000	13.25	10.00	8.00	8.00
IV	25,001 - 35,000	14.00	10.50	8.50	8.50
V	35,001 - 45,000	15.00	11.50	9.50	9.50

Exchange Group	Main Stations & PBX Trunks	Residence 1	Residence 2	Residence 4	Residence 5
I	Less than 5,000	5.25	4.50	3.55	3.55
II	5,001 - 15,000	6.00	5.25	4.05	4.05
III	15,001 - 25,000	6.50	5.50	4.30	4.30
IV	25,001 - 35,000	6.75	5.75	4.55	4.55
V	35,001 - 45,000	7.25	6.25	4.80	4.80

CONCORD AND KANNAPOLIS	Business	Residence
One-Party	$14.00	$6.75
Two-Party	10.50	5.75
*Four-Party	8.50	4.55
**Five-Party	8.50	4.55
CHINA GROVE - LANDIS		
One-Party	14.00	6.75
Two-Party	10.50	5.75
*Four-Party	8.50	4.55
**Five-Party	8.50	4.55
ALBEMARLE, BADIN, HARRISBURG, MT. PLEASANT, NEW LONDON, OAKBORO		
One-Party	12.50	6.00
Two-Party	9.50	5.25
*Four-Party	7.50	4.05
**Five-Party	7.50	4.05

*Offered only inside Base Rate Area.
**Offered only outside Base Rate Area.

ZONE RATES OUTSIDE BASE RATE AREA

One-Party	$0.75 per zone
Two-Party	$0.45 per zone

Directory Listings: 35 cents each month per line

Special Installation Charge for Starlite: None

Manual Private Branch Exchanges

Class A Cordless Switchboard (Maximum 25 lines)	$15.00
Class B Cord NonMultiple Switchboard	
30 lines or less in use	15.00
31 to 100 lines in use	22.50
101 to 200 lines in use	27.50

Automatic (dial) switching systems
Capacity over 10 trunks and 100 stations 70.00

Operators Headset
No. 52 type headset $0.70 per month

Service Stations
Flat rate service rate-minimum
per station being $3.50 per month
and the minimum per line $14.00 per month

Private Lines and Special Circuits
The minimum charge per circuit: $4.80 per month

DOCKET NO. P-62, SUB 31

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Eastern Rowan Telephone Company, Inc.) ORDER
for an Adjustment of Rates and Charges)

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on May 16, 1969, at 10 a.m.

BEFORE: Chairman Harry T. Westcott (Presiding), and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., Clawson L. Williams, Jr. and Marvin R. Wooten

APPEARANCES:

For the Applicant:

F. Kent Burns, Esq.
Boyce, Burns & Smith
Attorneys at Law
P. O. Box 1406, Raleigh, North Carolina

Nelson Woodson, Esq.
Woodson, Hudson & Busby
Attorneys at Law
201 West Council Street
Salisbury, North Carolina

George C. McConnaughey, Esq.
George, Greek, King, McMahon & McConnaughey
Attorneys at Law
100 East Broad Street
Columbus, Ohio

For the Commission Staff:

Edward B. Hipp, Esq.
Commission Attorney

Larry G. Ford, Esq.
Associate Commission Attorney

No Protestants

WILLIAMS, COMMISSIONER: These proceedings arise on Petition filed with the North Carolina Utilities Commission (hereinafter referred to as "COMMISSION") on January 6, 1969 wherein Eastern Rowan Telephone Company, Inc. (hereinafter referred to as "EASTERN ROWAN") seeks authority to make applicable to the telephone service rendered by it certain increased rates and charges as specified in Exhibit 1, attached to the Petition. By its Order, dated January 23, 1969, the COMMISSION set the Petition for hearing on May 16,

1969, at 10 a.m., declared the proceeding to be a general rate case under G.S. 62-133, and ordered EASTERN ROWAN to publish notice of the proposed increase in telephone rates in a newspaper having general circulation in EASTERN ROWAN'S service area.

No protests, objections or interventions were filed or made prior to the hearing, and no person appeared at the hearing in opposition to the proposed increased rates. Appearances were made by EASTERN ROWAN and the Commission Staff as specified in the caption.

Hearing on the Petition was held on May 16, 1969, as specified in the Order and published Notice, at which evidence consisting of testimony and documentary exhibits were presented by EASTERN ROWAN and the Commission Staff.

Based on the evidence adduced at the hearing, the COMMISSION makes the following

FINDINGS OF FACT

1. That EASTERN ROWAN holds a Certificate of Public Convenience and Necessity issued by the COMMISSION under which it is authorized to furnish and is furnishing telephone service in a territory located in the eastern part of Rowan County and a small portion of the northeastern section of Cabarrus County, North Carolina, in and around the Towns of Granite Quarry, Rockwell, Faith and Gold Hill and encompassing an area of approximately 96 square miles populated by about 16,000 people.

2. That the 12-month test period (hereinafter referred to as "TEST PERIOD") used by EASTERN ROWAN and the Commission Staff in presenting evidence pertaining to EASTERN ROWAN'S property, used and useful in providing telephone service and to EASTERN ROWAN'S financial operating experience, began on October 1, 1967, and ended September 30, 1968, and is a representative 12-month period for this purpose; that as of September 30, 1968, EASTERN ROWAN had 3,385 telephone stations in operation in its service area, providing one, two and four party service to both businesses and residences and EASTERN ROWAN has established zone rates outside the base rate area around its exchanges.

3. That the adjusted net value of EASTERN ROWAN'S plant in service at the end of the TEST PERIOD was $1,095,316; that the value of plant under construction at the end of the TEST PERIOD was $29,535; that the adjusted allowance for working capital, including value of materials and supplies, cash working capital, less average Federal income tax accruals, was $14,900, and the total of EASTERN ROWAN'S net investment in telephone plant and of the allowance for working capital, as adjusted as of the end of the TEST PERIOD, was $1,139,751.

4. That upon a consideration of the foregoing findings and of EASTERN ROWAN'S evidence tending to show that the depreciated reproduction cost new of EASTERN ROWAN'S property as of the end of the TEST PERIOD, plus an allowance for materials and supplies and cash working capital, produces a fair value rate base of $1,405,939, the COMMISSION finds that the fair value of EASTERN ROWAN'S property used and useful in providing service to the public within the State of North Carolina is $1,182,500.

5. That the COMMISSION further finds from the evidence that EASTERN ROWAN'S net annualized operating income for return (before payment of fixed charges) for the TEST PERIOD per EASTERN ROWAN'S books and without accounting adjustments, was $42,229; that after all accounting and pro forma adjustments said net operating income available for payment of fixed charges and return to stockholders was $39,950, representing a 3.38 percent rate of return on EASTERN ROWAN'S fair value rate base of $1,182,500.

6. That EASTERN ROWAN had fixed annual interest obligations (fixed charges) for the TEST PERIOD of $19,253; that, per adjusted company books, EASTERN ROWAN had a net profit (after payment of expenses and fixed charges) of $22,573 for the test period; that the increases in rates and charges herein sought, when applied to telephone stations at the end of the TEST PERIOD will produce gross additional revenues of $46,217 and will increase EASTERN ROWAN'S rate of return on the fair value of its properties to 5.00 percent, but that, based on EASTERN ROWAN'S annualized experience at the end of the TEST PERIOD, said increased rates and charges will provide sufficient funds to pay all expenses and fixed charges and leave EASTERN ROWAN with a net profit of $41,752, or a return on equity of 21.73%.

7. That the COMMISSION further finds that EASTERN ROWAN is a wholly owned subsidiary of Mid-Continent Telephone Corporation (hereinafter referred to as "MID-CONTINENT") from whom it obtains certain services (management, legal, accounting, engineering, etc.); that during the TEST PERIOD it paid to MID-CONTINENT a total of $10,106 for these services, of which $1,725 was for specific services rendered and $8,381 was for EASTERN ROWAN'S share of services rendered to all subsidiaries.

8. That during the calendar year, 1968, EASTERN ROWAN purchased materials and equipment from another of MID-CONTINENT'S wholly owned subsidiaries, Communication Supply, Inc. (hereinafter referred to as "CSI") in the amount of $57,419; that while the COMMISSION recognizes the profitability of the transactions between CSI and EASTERN ROWAN, there is no evidence in the record that the materials purchased from CSI could have been purchased elsewhere at a lower price. On the contrary, it would seem that EASTERN ROWAN due to its relatively small size, probably could not exercise the leverage of volume purchases in the market place that CSI could exercise. Therefore, the COMMISSION

reserves for future consideration any need for investigation and resultant adjustments which may arise from EASTERN ROWAN'S purchases from CSI, or from financial activities associated with such purchases which CSI plans in the future.

9. That the prices paid to CSI by EASTERN ROWAN were the same as that paid by other CSI customers, and, based on the average profit experience of CSI on all its sales in calendar year 1968, CSI and MID-CONTINENT made after tax profits of approximately $3,200 on CSI's sales to EASTERN ROWAN during the TEST PERIOD. No portion of said $3,200 profit was credited back to EASTERN ROWAN or otherwise applied to its benefit.

10. The COMMISSION further finds that in addition to its ownership of EASTERN ROWAN, MID-CONTINENT also owns entirely, the capital stock of other telephone companies operating in North Carolina, namely, Denton Telephone Company, Thermal Belt Telephone Company and Mooresville Telephone Company; that MID-CONTINENT plans to merge the petitioning EASTERN ROWAN and Denton Telephone Company, and to thereby effect significant savings in operating expenses; that the merger of these companies and the effecting of other consolidations among MID-CONTINENT'S subsidiaries is desirable and needed and should be pursued by MID-CONTINENT; that the earnings record of these other companies, as disclosed in records on file with the COMMISSION, are not at such level that their merger would produce such savings as to eliminate the petitioning EASTERN ROWAN'S need for increased earnings.

Based upon the foregoing Findings of Fact and upon the evidence supportive thereof, the COMMISSION reaches the following

CONCLUSIONS

That the increased rates and charges herein proposed are needed and required by EASTERN ROWAN in order to enable it to continue its service to the public in this State, and said rates and charges are reasonable and just for the respective services and usages to which they will be made to apply.

It is concluded that EASTERN ROWAN has satisfactorily borne the burden of proving that the proposed increase in its rates and charges are just and reasonable, and that the additional revenues which will be derived from said increased rates and charges are needed and required by EASTERN ROWAN in order to enable it, under sound management, to continue providing telephone service to the public in its service area.

IT IS, THEREFORE, ORDERED That the petition in this docket be, and it is hereby approved consistent with this Order and the Petitioner, Eastern Rowan Telephone Company, Inc., is

authorized to file and make effective on all billings rendered, after August 1, 1969, its tariffs in accordance with all rates and charges as specified in Exhibit 1 attached to the Petition and made a part of this Order by reference as fully as if set forth herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of July, 1969.

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

DOCKET NO. P-62, SUB 31

McDEVITT AND BIGGS, COMMISSIONERS, DISSENTING: Although we agree to approve the rate increases sought herein, we cannot agree with the finding made by the majority that the Commission should reserve for future consideration any need for investigation of and resultant adjustments which may arise from Eastern Rowan's purchases of telephone equipment from its corporate affiliate, Communication Supply, Inc. (CSI), or from the financing activities associated with such purchases which CSI plans in the future. In this connection, we feel that the majority order fails to find additional facts, as follows, which are fully supported by the uncontradicted evidence and which compel the Commission to take prompt, remedial action in connection with the dealings between Eastern Rowan and CSI:

1. CSI, a wholly owned subsidiary of the same parent company who owns Eastern Rowan, does not sell telephone equipment and supplies to non-affiliated companies to any measurable extent, if at all, but derives virtually all of its business from inter-company dealings.

2. Prior to the organization of CSI in 1967 Eastern Rowan and the other Mid-Continent telephone companies were able to purchase equipment and supplies through the parent company on a cost or nonprofit basis.

3. CSI has no warehouse or stockroom and maintains no significant inventory of equipment and supplies, and it merely takes purchase orders for such equipment from Eastern Rowan and the other Mid-Continent subsidiaries and processes them with a supplier, which ships the purchased goods directly to Eastern Rowan and the other purchasing subsidiaries without any handling by CSI.

4. The price list furnished by CSI to Eastern Rowan lists the prices for various manufacturers' and suppliers' goods as "published list" or, in some few cases, "published list" less 5% or 10%. It is a known fact to this Commission, of which we believe judicial notice can be taken, that these "published list" prices are frequently only a starting or talking price and that such prices are

subject to substantial reduction. Information recently filed with the Commission by a small, independent telephone company in North Carolina shows discounts on telephone cable ranging from 45% to 50%.

5. CSI, although charging the full book price to Eastern Rowan and the other Mid-Continent companies for such equipment and supplies, has no sales or advertising expense, no warehouse expense, and very little of the other overhead commonly experienced by other companies independently engaged in the sale of equipment and supplies. CSI is able to eliminate these overhead items because Eastern Rowan and the other Mid-Continent companies are "captive customers", who ostensibly are permitted to purchase elsewhere, do not do so for obvious reasons.

6. CSI's only reason for being is to derive economic benefit under this "captive customer" arrangement for the parent company. No other good or valid reason for establishing such company and eliminating the former nonprofit arrangement was advanced. Certainly no benefit to Eastern Rowan was cited.

7. In addition to its equipment sales business, CSI now proposes to start a "financing operation" under which it will finance equipment purchases made from it by Eastern Rowan and the other Mid-Continent companies. Such purchases will be financed on an installment arrangement under which Eastern Rowan will pay finance charges equal to those applied by other independent financing companies. It is common knowledge that the rates for such financing are very high. Heretofore such equipment financings have been made by Eastern Rowan on advances from the parent company at cost. As in the case with its equipment sales business, CSI will have none of the overhead ordinarily associated with the operation of independent financing companies, although it proposes to charge the same rates as such companies. This financing operation will undoubtedly produce substantial profits to the parent company which will not be credited back to the benefit of Eastern Rowan and its ratepayers.

8. The profit-loaded prices charged by CSI for equipment and financing will inflate the book value of Eastern Rowan's property and afford the grounds for claiming even higher rates from the subscribers.

We feel that it is incumbent upon the Commission to recognize these dealings between Eastern Rowan and CSI for what they are: Devices under which the stockholder of Eastern Rowan makes a profit from the operation of the company through a "captive customer" arrangement which is not only unregulated under the majority order but is so ignored that the economic disadvantage to the ratepayer is constantly compounded by the delay in taking action on the matter.

Other state commissions, notably California and New York, have promptly and positively declared that these transactions are within the orbit of regulation and should be considered in all ratemaking proceedings. Such action is needed in North Carolina, and we are compelled to dissent from the action of Commissioners Westcott, Williams and Wooten in the issuance of an order which leaves this matter unresolved. Our failure to act upon these dealings at this time has serious implications in that similar dealings are involved in the operation of other Mid-Continent subsidiary companies operating in North Carolina, namely, Mooresville Telephone Company, Thermal Belt Telephone Company, and Denton Telephone Company.

John W. McDevitt, Commissioner
M. Alexander Biggs, Jr., Commissioner

DOCKET NO. P-19, SUBS 94 & 95

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of General Telephone Company of the Southeast for Authority to Adjust Rates and Charges for Telephone Service in the North Carolina Exchanges of Durham and Creedmoor) ORDER APPROVING SERVICE IMPROVEMENT PROGRAM AND AMENDING COMMISSION ORDER DATED DECEMBER 19, 1968

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on May 1, 1969, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, Commissioners John W. McDevitt, Clawson L. Williams, Jr., M. Alexander Biggs, Jr. and Marvin R. Wooten

APPEARANCES:

For the Petitioner:

James L. Newsom & A. H. Graham, Jr.
Newsom, Graham, Strayhorn & Hedrick
Attorneys at Law
P. O. Box 2088, Durham, North Carolina

For the Intervenors:

Claude V. Jones
City of Durham Attorney
111 Corcoran Street
Durham, North Carolina
For: The City of Durham

For the Commission Staff:

Edward B. Hipp and Larry G. Ford
Commission Counsel
P. O. Box 991, Raleigh, North Carolina

BY THE COMMISSION: The Commission Order dated December 19, 1968, directed General Telephone Company of the Southeast (Company) to file with the Commission for approval a time schedule providing for the progressive reduction of mileage surcharges and service with more than four subscribers on a line so that both mileage surcharges and such multi-party service will be eliminated not later than December 31, 1973. The Company filed with the Commission on March 19, 1969, a proposed service improvement plan for the progressive reduction of mileage surcharges and progressive elimination of all party line service in the exchanges of Durham and Creedmoor so that by December 31, 1973, all mileage surcharges will be eliminated and one-party telephone service will be provided to all subscribers.

On April 3, 1969, the Company filed an application for amendment to the Commission order dated December 19, 1968, whereby the Company was directed to provide extended area service (EAS) between its Durham and Creedmoor exchanges not later than December 31, 1970. The application filed April 3, 1969, requested the Commission to amend its December 19, 1968 order setting the effective "in-service" date for Durham - Creedmoor EAS as not later than March 31, 1971.

Upon consideration of the proposed service improvement plan and application for amendment to the Commission order, these matters were set for hearing by orders dated April 1, 1969 and April 11, 1969, with copies of the proposal and application served on parties of record in this proceeding. Hearing was held on May 1, 1969, at which time the Company entered testimony and exhibits into evidence. The Company witness testified that the proposed service improvement program would comply with the Commission order to eliminate service outside the base rate area with more than four subscribers per line and eliminate mileage surcharges by December 31, 1973. Furthermore, the Company proposed to expand the service improvement program so that all telephone subscribers in the Durham and Creedmoor exchanges would be upgraded to individual line service by December 31, 1973. The plan for upgrading all subscribers to individual line service would be accomplished by systematically upgrading individual sections of each central office area at Durham and Creedmoor. The sections of each central office would be defined on a map with starting and completion dates indicated for each sector. When the upgrading program is started in a sector, the Company proposes to eliminate zone mileage charges and to apply the authorized individual line rate to each subscriber as he is upgraded to individual line service with all subscribers in the sector being upgraded to individual line service within a specified time schedule.

The testimony of the Company witness further indicated that the proposed service improvement program to upgrade all subscribers to individual line service can be accomplished more economically if implemented at this time. The Company estimates that an additional plant investment of $1,000,000 spread over approximately five years will be required for the individual line proposal.

The testimony of the Company witness indicates that if all subscribers are upgraded to individual line service, it will permit more efficient utilization of outside plant facilities, result in reduction of maintenance expense, result in savings in central office equipment, and provide improved service to the subscriber by increasing line availability for incoming and outgoing calls, improve transmission quality, increase line privacy, and reduce subscriber service troubles.

The Company presented further testimony indicating that if Durham - Creedmoor extended area service is established by December 31, 1970, as required by the Commission's December 19, 1968, order, it will not coincide with the regular annual telephone directory issue date. The provision of EAS will necessitate the change of the central office code at the Butner and Creedmoor offices, and therefore, will result in a change in telephone number for all subscribers served from the Butner and Creedmoor offices. The number change information must be provided to all subscribers within the Durham and Creedmoor exchanges in order to maintain normal telephone service and properly utilize the EAS. The Company witness testified that if EAS is established by December 31, 1970, a supplemental interim directory costing about $6300 could be issued to provide the new telephone numbers to all subscribers. An alternative would be to advance the publication date of the annual directory so that all new numbers could be included and the directory issued by the EAS in-service date of December 31, 1970. The estimated additional cost of advancing the publication of the directory would be approximately $30,000. If the EAS in-service date is deferred from December 31, 1970 to March 31, 1971 or approximately ninety days, there would not be a necessity for a supplemental interim directory or a need to advance the directory issue date.

Upon the evidence adduced, the Commission now makes the following

FINDINGS OF FACT

1. General Telephone Company of the Southeast is a duly created and existing corporation with headquarters in Durham, North Carolina. It is authorized to do business in North Carolina and is a public utility providing telephone service in North Carolina at the exchanges of Durham and Creedmoor.

2. The service improvement plan proposed by the Company complies with the Commission's order dated December 19, 1968, which required the Company to file with the Commission for approval a time schedule providing for the progressive reduction of mileage surcharges and service with more than four subscribers on a line so that both mileage surcharges and service with more than four subscribers will be eliminated not later than December 31, 1973.

3. The service improvement program proposed by the Company goes beyond the requirement of the Commission order since the proposal, if implemented, would eliminate all party line service in the Company's exchanges and provide only individual line service by December 31, 1973.

4. The increased cost in plant investment required to implement the individual line proposal is approximately $1,000,000 spread over approximately five years.

5. The December 31, 1970, in-service date for Durham - Creedmoor extended area service will necessitate additional directory cost.

6. An in-service date for Durham - Creedmoor EAS of March 31, 1971, will not necessitate additional directory cost and will delay the establishment of the service not more than ninety days.

Based upon the record and the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

The Company plan to progressively eliminate mileage surcharges and provide only individual line service is consistent with Commission objectives and the trend of subscribers toward individual line service. The establishment of all one-party flat rate telephone service should better meet subscriber service demands and result in overall improvement in the quality, adequacy and efficiency of telephone service.

The extension of time for the establishment of extended area service from December 30, 1970, to March 31, 1971, will eliminate the need for incurring additional directory cost and the time extension will not materially delay the provision of Durham - Creedmoor extended area service.

Based upon the record, the findings and conclusions set forth above,

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. The service improvement plan submitted by General Telephone Company of the Southeast to progressively eliminate mileage surcharges and provide only individual line service by December 31, 1973, is hereby approved.

2. The Company is directed to file within 120 days from the date of this order the detailed maps and tariffs necessary to define and implement the service improvement plan.

3. The date by which Durham - Creedmoor extended area service shall be provided is extended from December 31, 1970, to not later than March 31, 1971.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of May, 1969.

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

DOCKET NO. P-29, SUB 61

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Lee Telephone Company, Martinsville, Virginia, for Authority to Increase its Rates and Charges within the Area it serves in North Carolina) ORDER

HEARD IN: Old Municipal Courtroom, City Hall, Winston-Salem, North Carolina, on March 4, 5, 6 and 7, 1969

Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, March 14, 1969, at 9:00 A.M.

BEFORE: Chairman Harry T. Westcott, PRESIDING, and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Richard G. Long
Burns, Long & Wood
Attorneys at Law
Roxboro, North Carolina

Melvin A. Hardies
Ross, Hardies & O'Keefe
122 So. Michigan Avenue
Chicago, Illinois 60603

Duane T. Swanson
Lee Telephone Company
P. O. Box 900, Lincoln, Nebraska 68501

L. H. Van Noppen
Attorney at Law
Court Square
Danbury, North Carolina

For the Protestants:

Sam O. Worthington
Attorney at Law
Box 598, Greenville, North Carolina
For: Walkertown Telephone Exchange Committee

For the Intervenors:

George A. Goodwyn
Assistant Attorney General
Justice Building
Raleigh, North Carolina
For: Using and Consuming Public of North Carolina

For the Commission Staff:

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

Larry G. Ford
Associate Commission Attorney
North Carolina Utilities Commission
Box 991, Raleigh, North Carolina

WOOTEN, COMMISSIONER: The Applicant, Lee Telephone Company (hereinafter referred to as Lee or the Company) filed its Application and Tariffs with the Commission on October 2, 1968, seeking an increase in its rates and charges for its North Carolina operations. By order dated October 24, 1968, the Commission suspended the effective date of said tariffs, initiated an investigation, required that public notice be given and set the matter for hearing, declaring the proceeding to be a general rate case pursuant to G.S. 62-137. Subsequent thereto on December 16, 1968, intervention was filed by the Attorney General's Office of North Carolina and on February 12, 1969, motion to intervene was filed by the Telephone Committee of Walkertown Telephone Exchange, which motions to intervene were allowed by the Commission.

On January 6, 1969, the Commission entered an order enlarging the scope of this proceeding to include Phase II, Service Complaints and Investigation, and, Phase I, Rates, and Phase II were consolidated for hearing. By order dated February 14, 1969, the Commission established Winston-Salem as the site for the hearing in this case.

The Telephone Committee of Walkertown filed a reply and application for affirmative relief with the Commission on February 24, 1969.

Hearings were held March 4, 1969, through March 7, 1969, in Winston-Salem, North Carolina, and on March 14, 1969, at the Commission's Offices in Raleigh, North Carolina. Pursuant to order, the Staff of the Commission made an investigation into the books, records, and operations of Lee, which investigation included service provided by and service complaints against Lee. The Company, Attorney General, Walkertown Telephone Committee, and Staff presented evidence in the proceedings, with the Company presenting six (6) Company witnesses; the Attorney General's evidence consisted of the testimony of some nine (9) witnesses and two (2) tendered witnesses who were consumers and whose testimony related primarily to service complaints, while Walkertown Telephone Committee presented nineteen (19) consumer witnesses, and the Staff offered the evidence of four (4) Staff witnesses. The testimony with regard to service complaints was received over the objection of the Company.

Upon consideration of the entire record, the evidence and testimony presented and received during the course of the hearings, the Commission makes the following

FINDINGS OF FACT

1. Lee Telephone Company, under and in accord with the laws of the State of North Carolina, is authorized to do business in this State as a duly created and existing corporation with headquarters located in Martinsville, Virginia. Central Telephone Company purchased controlling interest in the common capital stock of Lee in October, 1965, and has operated the company since that time. Lee is a public utility providing general telephone service in both North Carolina and Virginia. The Company (Lee) serves 48,389 stations, of which 10,278 (21.24%) are located in North Carolina and are served through seven (7) exchanges, located at Danbury, Madison, Stoneville, Walkertown, Walnut Cove, Quaker Gap, and Sandy Ridge. The Company (Lee) added 595 stations to its system in this State during the twelve (12) months' period ending May 31, 1968.

2. The increase in rates and charges proposed by Lee are for local service in this State, and does not involve toll rates. The proposed increase is designed to produce $239,973 in additional gross revenue, of which $99,683 would accrue to the Company's use. The average percentage increase proposed is 43.85%, which would add an average of $23.35 in additional charges annually for each station in North Carolina for local service.

3. The test period used by the Company and the Staff was the same and included the twelve (12) month period ending May 31, 1968, upon which their computations and results were

based. The period used and the methods of adjustment are in compliance with G.S. 62-133.

4. Allocations to the North Carolina operations of Lee from its total operations used by the Company and the Staff were for all practical purposes the same. They assigned gross plant and depreciation reserve accounts between the two (2) States on the basis of physical location of the same, except for the commonly used headquarters building which was allocated on the basis of the ratio of plant located in North Carolina, applied to joint-use floor space. Operating revenues were allocated to the state in which earned, except for toll revenues which were allocated on the basis of the origin point of the call which resulted in an allocation to this State of 17.76% of the Company's total gross revenues, or $847,886. Revenue deductions were assigned to the state where charged except for indirect expenses for the Martinsville, Virginia, and Lincoln, Nebraska, headquarters with reference to which the parties used the ratio of total stations to stations per exchange in allocating indirect charges for local service billing and accounting expenses and the ratio of total tickets to exchange tickets for toll billing and accounting expenses. Company capital structure and capital service requirements are allocated to North Carolina in the same ratio as net plant therein located; i.e., 21.6%.

5. No original cost study figures were presented. The plant investment figures used both in the Staff's presentation and the Company's presentation are unaudited book figures. They represent original costs only to the extent the Company's books have been kept in a generally uniform manner based on actual costs. This has been done since 1950, from which time, continuing property records permit reasonable verification. The evidence discloses no serious variance prior to this time. Accordingly, for purposes of this case, adjusted book cost figures reasonably represent original cost figures.

6. The difference between the Staff's net end-of-period investment rate base and that of the Company, is due to the fact that the Company did not include the credit effect of income tax accruals which amounts to $28,469. Therefore the Company's end-of-period gross plant and plant under construction was $5,313,339, with an applicable depreciation reserve of $1,234,290, and a working capital allowance of $118,597 for a net end of the period rate base of $4,197,646, while the Staff's evidence produced figures in the amount of $5,312,766, $1,245,088, $90,443, and $4,158,121 respectively.

The Staff's figures are in accord with the prescribed Uniform System of Accounts, and we therefore find that the reasonable net book investment rate base for Lee Telephone Company's utility plant used and useful in rendering telephone service in this State at May 31, 1968, is

$4,158,121, and that this figure reasonably represents the original cost rate base applicable.

7. The Company evidence tended to show that the gross trended original cost of its allocated North Carolina utility plant is $6,017,320, with a trended depreciation reserve attributable thereto of $1,483,549, for a net trended original cost rate base, including plant under construction and working capital allowance of $5,009,100. We find the trended original cost rate base to be $5,009,100.

8. Having fully considered and given full weight to all of the evidence and the matters herein found, we further find the fair value of Lee Telephone Company's public utility property used and useful in providing the service rendered to the public within this State to be $4,500,000.

9. The evidence presented by the Staff and the Company tends to show that the Company's annual gross operating revenues at the end of the test period were $847,886, and we so find.

10. The evidence as presented tends to show Company gross operating revenues under the proposed rates, (1) by the Company to be $1,250,001, and (2) by the Staff to be $1,247,971. We find annual gross operating revenues under the rates hereinafter found to be reasonable and if approved would be $1,155,697.

11. We find actual, reasonable and legitimate total operating expenses to be $430,044 from evidence presented by the Company and the Staff tending to show the same to be $434,144 and $430,044 respectively.

12. Annual depreciation expense evidence by the Company shows an expense of $206,014, and the evidence by the Staff shows the same to be $204,837. We find the reasonable annual cost consumed by depreciation is $204,837.

13. The Company and Staff evidence places annual taxes under the present and the proposed rates as follows:

	Present Rates	Proposed Rates
By Company	$169,596	$308,926
By Staff	$161,337	$298,160

We find a reasonable and actual annual tax liability to be $161,337 under the present rates and $298,160 under the proposed rates and that under the rates hereinafter found reasonable and approved that the Company's annual tax liability is estimated at $244,037.

14. The Company's evidence tends to show a net operating income for return of $216,990 under present rates and $316,673 under the proposed rates. The Staff shows $233,326

and $333,009, respectively. Allowing for all operating revenue deductions herein found reasonable, the Company would be permitted net operating income for return of $292,500 under the rates hereinafter found reasonable and approved.

15. Capital structure allocated to North Carolina as heretofore found shows total capitalization of $4,139,575, consisting of $1,720,656 long-term debt (41.57%) at interest rates varying from 3% to 6 3/8%, equity capital (34.43%) totaling $1,425,319 and comprised of $542,439 in common capital stock, $207,623 in premium on common stock and stock expense, and $675,257 in earned surplus; and short-term debt (24.0%) of $993,600 at 6% and 6 1/2% of which $367,200 is in advances from the parent company.

16. Lee's reasonable annual fixed charges are $88,353 for long-term debt and $62,316 for short-term debt, for a total annual actual and reasonable debt service requirement of $150,669.

17. Applicant is earning 5.74% on its common equity attributed to North Carolina operations under present rates. The Company will earn 12.73% on its common equity under the proposed rates and will be permitted to earn 9.89% return on common equity under the rates hereinafter found reasonable and approved.

18. The Company is earning a rate of return on the fair value of its property as herein found of 5.19% under present rates; it would earn 7.40% under the proposed rates, and will be permitted to earn 6.50% under the rates hereinafter found reasonable and approved.

19. Giving full consideration to all the evidence, facts, and circumstances in this case, we find a fair rate of return on the fair value of the Company's utility property is 6.50%.

20. Rates as proposed by the Company would permit the Company to earn, in addition to the reasonable operating revenue deductions herein found, a rate of return of 7.40% on the fair value of the Company's property herein found. To the extent such proposed rates produce, in addition to the reasonable operating revenue deductions herein found, a rate of return in excess of 6.50% on the fair value of the Company's property as herein found (i.e., $4,500,000), such rates are excessive, unjust and unreasonable. Rates charged in accordance with the schedule hereto attached and marked Appendix "A" and made a part hereof, will permit the Company to earn, in addition to the reasonable operating revenue deductions herein found, a fair rate of return on the fair value of its public utility property used and useful in providing the service rendered to the public within this State and constitute rates that are just and reasonable, both to the Applicant and to the public.

21. The quality of service rendered by Lee Telephone Company in this State is poor. In a measure, the Company conceded the overall justification for these service complaints and stated its plans and intentions for improving its North Carolina facilities in the near future. The inadequate and poor quality telephone service offered by the applicant in this State relates to many factors such as the nature, size and extent of the territory served, the fact that the telephone facilities when acquired by Central Telephone Company in 1965 were engineered in such a way as to engender such service, the plant was inadequate and inefficient and therefore many of their problems were inherited upon purchase. However we find from the nature and extent of the complaints made and from statements and testimony of company representatives that the service being rendered by Lee is substandard, and that such grade of service reflects the failure of the Company to take those steps necessary for the improvement of toll service, local central office service, proper maintenance and the reduction of unsatisfactory multiparty main station service as is economically feasible, as well as its failure to eliminate traffic overloads on toll trunks, extended area service trunks and central office equipment groups, and its failure to take sufficient action to improve transmission and reduce noise levels.

22. Centel Service Company is a wholly owned subsidiary of Central Telephone Company, which company is a subsidiary of Central Telephone and Utilities Corporation, as is Lee Telephone Company. Centel Service Company was incorporated in Delaware in June 1967. Said company was primarily engaged in processing orders from its operating affiliated companies (including Lee) for items of supplies and equipment used in their respective operations during the calendar year 1968. As of December 1968 Centel Service Company had about 700 different items of materials, supplies and equipment warehoused at four locations in this Country, one being in Martinsville, Virginia. During the calendar year 1968 Lee's purchases for its North Carolina operations from Centel Service totaled $542,751 which generated a net profit to Centel in the amount of $39,621 for a rate of net profit at 7.3%. Total sales by Centel Service during the year amounted to $13,222,551. There is no evidence in this record relating to comparative prices from other supply outlets.

From the evidence, testimony and records of the Commission, we arrive at the following

CONCLUSIONS

1. Applicant, Lee Telephone Company, is properly before the Commission, which has jurisdiction over the Applicant as to its utility rates and service in North Carolina and over the subject matter in these proceedings.

2. While both original cost and replacement value of the Company's utility properties within North Carolina have been considered, we conclude that neither constitutes a proper rate base. We have, therefore, arrived at our own independent conclusion, without reference to any specific formula, both as to the fair value of the Company's property and a fair rate of return on that fair value.

3. The statutory rate-making formula is controlling in this matter. We have considered the substandard quality of service being rendered by Lee as one element bearing upon the value of its utility investment and the rate it should be permitted to earn, along with other factors, including but not limited to, the nature, size and extent of the territory served, and the condition and level of its telephone facilities when acquired by Central Telephone Company in 1965. We further conclude that it is our responsibility to require the highest standards of service consistent with reasonable rates, and that such responsibility can only be discharged with reasonable regard to all facts and circumstances in each case and within the limits of the statutory rate-making formula.

4. From the record in this case, we conclude that the telephone service being offered the public in North Carolina by Lee is inadequate and of poor quality particularly in the areas of toll service and local central office service. Since our last order in June 1968, the Applicant has reduced the high percentage of unsatisfactory multiparty main station service from 38% to 21%. The progress made by the Company in this area is acknowledged, however we conclude that the Company must continue its remedial action in all areas. One necessary factor in obtaining better service in the franchised area here involved is more abundant and improved equipment. The Commission has two courses of pursuit, it may either ignore the duty imposed upon it by statute to grant a fair rate of return and thereby starve the Company making it impossible for it to improve service, or it can take the approach, which we here adopt, for improved service by fixing just and reasonable rates under our statutory formula. We conclude that it is appropriate to approve fair rates which should be a necessary and integral part of the eventual solution of the service problems, when joined with appropriate remedial action carried out with deliberate dispatch by the Company.

5. That four (4) party service should be provided on a flat-rate basis in view of the fact that it will become the basic rural service after the multiparty service has been eliminated (not later than December 31, 1972) in accord with the order of this Commission dated June 6, 1968, issued in Docket P-29, Sub 54.

6. That the Applicant should continue filing its semi-annual reports relating to the quality of service being rendered in order to allow the Commission and its Staff to evaluate the Company's service and its improvement.

7. That the Applicant should take action with all deliberate speed to provide adequate and sufficient telephone service to its subscribers within the rate structure herein found reasonable and approved. In the event that the Company should fail to provide substantial overall improvement in its service by December 31, 1970, and initiate and continue from this date to attainment of such adequate and sufficient telephone service, such action as is necessary, reasonable and proper in that connection, the Commission will consider such further action as is necessary to secure adequate and sufficient telephone service for the public living and being served in the area presently assigned to the Applicant.

8. That the objectives of the Company as presented, in the areas of the elimination of traffic overloads on toll trunks, extended area service trunks and central office equipment groups, and in the improvement of transmission and reduction of noise levels on all trunks, as well as the improvement in the efficiency of installing new telephone service and providing regrades should be met as a minimum and exceeded as desirable.

9. That the Company should: (1) proceed with the establishment of direct distance dialing for all exchanges and the rehoming of all offices in order that the benefits to the subscriber therefrom will be realized by March 31, 1971; (2) provide facilities as soon as feasible for the interception of individual numbers on party lines; and (3) implement its plans for service improvement as filed with the Commission and as testified to in the hearing.

10. In the order issued by this Commission in Docket No. P-29, Sub 54 the Applicant was ordered to file a schedule for the progressive reduction of zone mileage charges so that such charges would be eliminated by December 31, 1972. Considering the low density and rural area which Lee serves and their high percentage of party line service, we conclude that it is not economically feasible to eliminate such charges by that date without a large increase in plant investment which would result in much higher rates under our statutory rate-making formula. We further conclude that such total elimination of zone charges should be deferred until such time as the density of the Lee area and Lee's financial condition and structure improves to a point that flat rate service can be offered at a reasonable, just and acceptable rate. We therefore conclude that the target date of December 31, 1972, should be removed and eliminated, and that the Staff and Commission should continue to review the matter with the view to considering appropriate action in this area at such future time as circumstances indicate and permit.

11. Ordering paragraph 3 in Docket No. P-29, Sub 54 required the Applicant to file quarterly reports covering progress in upgrading service and the financial and operating conditions of the Company. The information being

received through these reports is also being filed on regular and monthly basis by the Company in accord with other reporting requirements of the Commission. We therefore conclude that the continued filing of such quarterly reports required by the Order is not necessary and that such requirement should be eliminated.

12. In view of the benefits which are derived from larger operating units and our knowledge of the deficiencies in the North Carolina portion of the Applicant's operation, we conclude that serious consideration should be given to the possible merger of all North Carolina telephone operating properties owned and controlled by Central Telephone and Utilities Corporation into one North Carolina telephone operating company, which would effectively join the present North Carolina portion of Lee Telephone Company and Central Telephone Company into one operating unit in this State. To that end, we further conclude that the Applicant, Lee Telephone Company, and its parent corporation, Central Telephone and Utilities Corporation, should immediately make a detailed feasibility study of such a possible merger, and that they should further file a report of such study and their recommendations thereon with this Commission on or before February 1, 1970. The cost of such feasibility study should be provided by Central Telephone and Utilities Corporation, the parent, as a service to its subsidiary.

13. That the evidence presented justifies the rates and charges herein found reasonable and approved, and does not at this time justify the cancellation of all or any part of the franchise heretofore granted by this State to Lee Telephone Company.

14. The level of profitability of the Centel Service Company on its purchasing and distribution of materials and supplies for its affiliate Lee Telephone Company requires that the Commission take notice of this type of relationship. Such transactions must be consummated within a true arm's-length environment if their results are to be accepted without adjustment or in-depth scrutiny. The Commission cannot permit parent holding companies to use affiliate companies as a device for transmitting and unreasonable level of profits to such parent holding company from goods or services supplied the operating company by way of an affiliate company (G.S. 62-153). It is the duty of the operating telephone company to prove that the prices it has paid for goods and services received from an affiliate are no greater than would have been paid through true arm's-length bargaining, and in fact lower prices should necessarily be the result. In the instant proceeding, the reasonableness of the level of prices charged and paid was not clearly demonstrated and no in-depth study was made by the Commission Staff due to the fact that Centel Service Company had been in operation approximately one year at the time of the hearing. No adjustment is being made to the rate base or in the operating expenses due to these inter-company transactions, and the Commission is not approving or

disapproving the level of profitability of the transactions between these two affiliates. We conclude it to be appropriate for this Commission to reserve for future consideration any need for investigation and possible adjustments which may properly arise therefrom in connection with inter-affiliated company transactions.

Accordingly, IT IS ORDERED:

1. That the application in this docket be, and it is, hereby approved consistent with the premises. In all other respects the application is disapproved and denied.

2. That Applicant, Lee Telephone Company, is authorized to file and make effective on all bills rendered on and after August 1, 1969, its tariffs containing rates and charges in accordance with the schedule of rates and charges contained in Appendix "A" attached hereto and incorporated herein. No mileage charges other than those herein approved shall be made applicable to the rates and charges hereby approved and authorized.

3. That the Applicant may immediately cease submitting reports required by Ordering Paragraph 3 of order entered by this Commission in Docket No. P-29, Sub 54 on June 6, 1968.

4. That the requirements of Ordering Paragraph 5 in the order issued by this Commission in Docket No. P-29, Sub 54 on June 6, 1968, insofar as the same pertains and relates to the total elimination of zone mileage surcharges, be, and the same are, hereby rescinded, and that the Commission and its Staff shall continue to review the matter of the total elimination of zone charges in the Lee service area with a view to considering and ordering appropriate action on the matter at such future date as circumstances indicate and permit.

5. That the Applicant shall immediately make a detailed feasibility study of the possible merger of all North Carolina telephone operating properties owned and controlled by Central Telephone and Utilities Corporation into one North Carolina telephone operating company and shall file with this Commission the details and results of such feasibility study along with its recommendations thereon not later than February 1, 1970.

6. That the Company shall substantially improve telephone service in its franchised service area and implement plans for service improvement as filed with the Commission and as testified to in the hearing in this case.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of July, 1969.

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

APPENDIX "A"

Lee Telephone Company
Docket No. P-29, Sub 61

ZONE MILEAGE CHARGES

ZONE	Miles Outside Base Rate Area Over Through	1- Party Zone Charges	2- Party Zone Charges
1	0 - 1/2	0.60	0.40
2	1/2 - 2 1/2	2.50	1.80
3	2 1/2 - 4 1/2	3.75	2.55
4	4 1/2 - 6 1/2	5.00	3.30
5	6 1/2 - 8 1/2	6.25	4.05
For each additional 2.0 mile zone or fraction thereof		1.25	0.75

DOCKET NO. P-29, SUB 61

BIGGS AND McDEVITT, COMMISSIONERS, DISSENTING: The majority order issued by Chairman Harry Westcott and Commissioners Clawson Williams, Jr., and Marvin Wooten (the majority) imposes upon the telephone subscribers of Lee Telephone Company the highest general telephone exchange rates in the State of North Carolina, and yet, as they concede in their findings: "The quality of service rendered by Lee Telephone Company in this State is poor... The service being rendered by Lee is substandard, and...such grade of service reflects the failure of the company to take those steps necessary for the improvement of toll service, local central office service, proper maintenance and the reduction of unsatisfactory multiparty main station service as is economically feasible, as well as its failure to eliminate traffic overloads on toll trunks, extended area service trunks and central office equipment groups, and its failure to take sufficient action to improve transmission and reduce noise levels."

The result achieved under the majority order should not be; and, in our opinion, such result arises from certain misjudgments, improper considerations, and failures to consider which invalidate it from a legal standpoint.

The General Statutes of North Carolina prescribe the manner for fixing rates for public utilities (other than motor carriers) as follows:

"§ 62-133. How rates fixed. - (a) In fixing the rates for any public utility subject to the provisions of this

chapter, other than motor carriers, the Commission shall fix such rates as shall be fair both to the public utility and to the consumer.

"(b) In fixing such rates, the Commission shall:

"(1) Ascertain the fair value of the public utility's property used and useful in providing the service rendered to the public within this State, considering the reasonable original cost of the property less that portion of the cost which has been consumed by previous use recovered by depreciation expense, the replacement cost of the property, and any other factors relevant to the present fair value of the property. Replacement cost may be determined by trending such reasonable depreciated cost to current cost levels, or by any other reasonable method.

"(2) Estimate such public utility's revenue under the present and proposed rates.

"(3) Ascertain such public utility's reasonable operating expenses, including actual investment currently consumed through reasonable actual depreciation.

"(4) Fix such rate of return on the fair value of the property as will enable the public utility by sound management to produce a fair profit for its stockholders, considering changing economic conditions and other factors, as they then exist, to maintain its facilities and services in accordance with the reasonable requirements of its customers in the territory covered by its franchise, and to compete in the market for capital funds on terms which are reasonable and which are fair to its customers and to its existing investors.

"(5) Fix such rates to be charged by the public utility as will earn in addition to reasonable operating expenses ascertained pursuant to paragraph (3) of this subsection the rate of return fixed pursuant to paragraph (4) on the fair value of the public utility's property ascertained pursuant to paragraph (1).

"(c) The public utility's property and its fair value shall be determined as of the end of the test period used in the hearing and the probable future revenues and expenses shall be based on the plant and equipment in operation at that time.

"(d) The Commission shall consider all other material facts of record that will enable it to determine what are reasonable and just rates.

"(e) The fixing of a rate of return shall not bar the fixing of a different rate of return in a subsequent proceeding."

Although the rate-making procedure set forth in the foregoing statute allows the Utilities Commission considerable latitude in evaluating evidence and making the required determinations, there are certain legal and equitable limitations within which these considerations and judgments should be made, and, in our opinion, Commissioners Westcott, Williams and Wooten have failed in certain material respects to act within these limitations:

1. The majority Commissioners fail to consider the special and unusual circumstances resulting from Lee Telephone Company's plant rehabilitation program, which special circumstances caused the "test period" used in this case not to be a representative 12-month period.

Controlling interest of Lee Telephone Company was acquired by Western Power & Gas Company, Inc., in the fall of 1965. At that time the telephone plant of Lee Telephone Company was in a dilapidated condition due in part to deferrals of maintenance and new construction occurring during a four-year period when the stock purchase by Western Power & Gas was in litigation. As was pointed out by the testimony of Mr. Garnett,[1] Vice President of Central Telephone Company (successor to Western Power & Gas), the level of earnings for Lee Telephone Company had been extremely low for many years and the company's plant, especially its toll facilities, had become quite antiquated. As Mr. Garnett further pointed out, immediately following the stock acquisition, work was begun on immediate and long range plans for an extensive rehabilitation expansion and improvement program, which program contemplated land acquisitions, the construction of buildings and building additions, the purchase and installation of additional central office equipment, the rebuilding and enlargement of cable facilities, improvement of toll facilities, and the establishment of two new central offices. Such program was intended to correct nonstandard and unsatisfactory telephone service and to provide an added capability for service.[2]

The evidence of Lee Telephone Company shows that gross additions to its telephone plant of $465,870 were made in 1965, $304,528 in 1966, $858,141 in 1967, and $1,549,837 in 1968.[3] The gross additions to plant during the 12-month test period cannot be determined from the evidence inasmuch as only 11 of the 12 months in the period are shown; however, the additions for the 11 months amounted to $1,248,245. Similarly, Lee's evidence shows that the plant investment per station gained in 1965 was $632.76, in 1966 was $577.45, in 1967 was $1,245.05, and in 1968 was $2,728.18.[4] Again,

the figures for the 12-month test period in this respect are not shown.

During the first three years following the acquisition of control of Lee Telephone Company by Western Power & Gas, investment in telephone plant was increased 72 percent,[5] about one-half of which was added during the test period.

It must be assumed, and indeed it was conceded by Mr. Garnett for Lee Telephone Company,[6] that Lee's low level of earnings and antiquated plant condition and the need for substantial new investments in plant facilities was known by Western Power & Gas when it purchased the controlling interest in Lee Telephone Company. The small minority stockholders obviously were aware of the same circumstances and need, having enjoyed whatever benefits there were from the deferred maintenance and construction occurring prior to the change in control. These unusual circumstances, i.e., low earnings history and antiquated plant at the time of the acquisition by Western Power & Gas and the extraordinary capital investments immediately following said acquisition and particularly occurring during the test period, present for consideration two factors which the majority Commissioners apparently ignored.

(a) A "fair profit" for stockholders of a company whose operations are run down and antiquated is not the same as such profit for the stockholders of a company with high earnings and a modern, efficient plant.

The rate-making statute above quoted directs the Commission to fix such rates of return as will enable the company "to produce a fair profit for its stockholders". The stockholders of Lee Telephone Company, including Central Telephone Company (successor to Western Power & Gas) and the minority stockholders, should not expect a rate of return on the Lee Telephone Company operations comparable to that of telephone companies with acceptable quality of service. Lee's own evidence indicates that the new management of Lee expected it to take five years to rehabilitate Lee's telephone plant, and it must be taken that such new management contemplated some deferment of earnings until this rehabilitation plant is completed. Dr. Charles F. Phillips, Jr., Lee's economic expert, concurred in the principle[7] that the purchaser of stock of an antiquated telephone company not able to provide adequate telephone service and requiring substantial additions to its plant would normally be expected to wait a while to get the full return that might ultimately be expected from the investment. The Commission has given Lee one substantial rate increase since its managemement change (Docket No. P-29, Sub 54, effective June 1, 1968) which was based on more normal operations and which should provide a fair return until the effects of the plant improvements now being made can be determined and felt.

(b) A "test period" in which gross additions to plant were inordinately high is not a representative 12-month period upon which rates can be reliably predicated without adjustment.

Considering that during the test period used in this case and the two years immediately preceding same, Lee's investment in telephone plant was increased 72 percent and that of that increase more than half occurred during the test period itself, and considering that during the test period the plant investment added per station gained was in great disproportion to similar figures for previous years, it is obvious that the test period is not a representative 12-month period for Lee Telephone Company.

The effect of having a nonrepresentative test period was commented on in Commission's order entered in Docket No. P-36, Sub 11, Application of Monroe Telephone Company for Authority to Increase Its Rates and Charges:

> "The Commission is cognizant of the fact that in a situation like that herein presented, wherein the investment in a telephone system is materially increased and the operating revenue deduction levels are also affected thereby, it is impossible to determine with any degree of finality exactly what rates and tariffs may be just and reasonable, both to the Company and to its subscribers."

In the instant case, the nonrepresentative character of test period makes one of three courses of action necessary: (1) The application for rate increase must be entirely rejected; (2) Accounting adjustments must be made to normalize the test period; or (3) Temporary rates should be approved subject to review and change if warranted. A normalization of the company's investment in plant (averaging gross additions for three years and reducing the investment during the test period to the average) would reduce Lee's net book value over one-half million dollars and would produce a rate of return even higher than that allowed under the majority order. Temporary rates are not justified in view of the company's return after making the accounting adjustments hereafter suggested. The nonrepresentative character of the test period justifies a denial of any rate increase at this time, especially in view of the fact that Lee is now in a rebuilding program and has not had opportunity to realize on its improvements.

2. The majority Commissioners erroneously considered the investment of Lee Telephone Company in telephone plant under construction in their ascertainment of the fair value of its property "used and useful" in providing service to the public.

G.S. 62-133, quoted above, directs the Commission to "ascertain the fair value of the public utility's property used and useful in providing the services rendered to the

public within this State". (Emphasis added) Telephone plant under construction is not plant that is "used and useful" in providing service, and it should not be considered in arriving at the fair value rate base.

The majority Commissioners, in their Finding No. 6, have specified a net book investment rate base based on the Commission Staff's calculations shown on Painter's Exhibit 1, Schedule I, which adds into said rate base $318,052 for "telephone plant under construction". Said Painter Exhibit also includes an item for "interest during construction", which is added to the company's operating income, and which partially offsets the investment in plant under construction item. The interest entry is less than half of the rate of return sought and by no means relieves the rate payers of the burden of paying a return on the unused plant included in the majority's net investment rate base. Both of these items should be eliminated from consideration, and the inclusion of these items in the calculations and considerations of the majority in making their findings are materially prejudicial and renders such findings invalid as a matter of law.

(3) <u>The majority Commissioners failed to credit the North Carolina operation of Lee Telephone Company with excess profits derived from dealings between it and Centel Service Company, another of the Central Telephone Company's subsidiary corporations.</u>

The majority order in its Finding No. 22 notes the inter-company dealings between Centel Service Company and Lee Telephone Company, but does nothing about it. Said order states that Centel Service Company is "<u>primarily engaged</u> in processing orders from its operating affiliated companies (including Lee) for items of supplies and equipment used in their respective operations". (Emphasis added) This finding is at odds with the testimony of Lee's witness Garnett who testified that Centel Service Company "<u>sells only</u> to the affiliated companies of Central Telephone and Utilities...[and]...makes no solicitations of sales outside". (Emphasis added) The majority order notes that Centel Service Company made a net after-tax profit from its North Carolina sales to Lee of $39,621 during the calendar year 1968, but said order concludes that inasmuch as there was no evidence relating to comparative prices of other supply outlets, no credit adjustment is presently required. The majority order seemingly takes the position that as long as the record is silent as to the bona fides of these inter-company transactions, benefits derived from them can remain with the parent company rather than be credited back to Lee and its rate payers.

In our opinion, just the opposite should be so. It is not only unjust, but is contrary to the spirit of the regulatory process for these "captive customer" benefits to be taken by the parent company without explanation.

The Centel Service Company was organized in 1967[9] and began operations on an original capital investment of $1,000.[10] Its earnings in 1968 were a fantastic $964,473.[11] These benefits represented a 9,645% return on original investment and 846% return on the original investment and retained earnings shown on the company's December 31, 1968 balance sheet.

The President and other officers of Lee Telephone Company are also the officers of Centel Service Company.[12] The Board of Directors of the two companies substantially overlap. Such dual management obviously produces a "captive customer" arrangement whereunder Lee Telephone Company has little alternative but to make its purchases from or through Centel Service Company. The evidence shows that Lee Telephone Company does in fact purchase practically all of its telephone equipment and supplies from Centel Service Company.[13]

Centel Service Company has no sales organization, no advertising and promotional costs, nor other overhead expenses normally associated with the conduct of an independent telephone and equipment supply business.[14] And yet, it justifies its charges to Lee Telephone Company of what it calls "normal prices" on the grounds that the company would have to pay these prices if it dealt independently. It is common knowledge among utility regulators that book prices for telephone equipment are commonly discounted as much as 50% in arm's-length dealings.

Assuming that the company is correct in its statement that the prices it charges Lee are in accord with the prevailing market prices, the benefits derived from the savings resulting from quantity purchases should be substantially passed on to the rate payer. The entire transaction is too suspect to permit the company to retain the gross profits of these dealings without a full explanation. We feel that a credit should be made to the Lee Telephone Company income reflecting the proportionate part of the profits taken by Centel Service Company from its North Carolina related sales to Lee which are over and above the profits that would produce a 10% return on the total assets involved in the Centel Service Company operation. Staff Smith's Exhibit No. 11 shows these total assets to be $1,596,905.00, and after allowing 10 percent return on this amount for its company-wide operations, a credit of $33,143 would result to Lee's North Carolina operation.

Failure of the majority to give some credit for these excess profits is legal error which is materially prejudicial to the cause of the Lee rate payers.

(4) <u>The findings of the majority Commissioners pertaining to Lee's fiscal operations during the test period are vague and ambiguous in some instances, are not supported by the evidence in others, and are, at least in the case of one required statutory finding, totally lacking.</u>

The majority Finding No. 6 states that the net book investment rate base for Lee Telephone Company is the figure determined by the Commission Staff, but the figure specified in such finding ($4,158,121) is not the Staff's net book investment rate base at the end of the test period, but is, instead, what the Staff says the net investment rate base would be if the increases sought by the company were allowed in full.[15] (See Schedule I, Painter's Exhibit No. I) Since the full increases were not allowed, the specified net book investment rate base is obviously at odds with the Staff's figure as of the end of the test period, as adjusted.[16]

The majority Finding No. 9 finds that the company's annual gross operating revenue at the end of the test period was $847,886, which figure is said to be in accord with the Commission's Staff evidence. This finding is in error in that it fails to take into account the pro forma adjustments to company books made by the Staff which added $165,374 to the per-company-book figure. A substantial part of this adjustment involved the annualization of the large revenue gain derived from the rate increase granted to the company, effective June 1, 1968.

The majority's Finding No. 11 relating to operating expenses, contrary to their Finding No. 9 relating to gross operating revenues, takes into account certain Staff accounting and pro forma adjustments, as does Finding No. 12 relating to annual depreciation expenses and Finding No. 13 relating to annual taxes. This inconsistency has the effect of maximizing deductions and minimizing income, all to the detriment of the rate payers.

The majority's Finding No. 14 relating to net operating income mentions the Staff and company figures, which are at variance, but makes no specific finding with respect to net operating income to present rates as required by G.S. 62-133(b)(2).

(5) The majority Commissioners failed to allow the Lee Telephone rate payers credit for the local service charges, which they pay in advance, as a part of the company's allowance for working capital.

Cash working capital is one of the ingredients in the net book investment rate base found and considered by the majority in arriving at fair value (see Schedule I, Painter's Exhibit 1). The Staff's figures,[17] which were adopted by the majority, allow one-twelfth of the company's annual operating expense as a cash working capital found. After adjustments this adds $36,494 to the net book investment rate base. As specified by company witness Pohlman,[18] the local service billings for one month, which are made in advance, amount to $59,140. No credit is given or offered for the use of these customer funds. Assuming that collection delays reduce the company's effective use of these advance billings to one-half month, a credit of $29,570 should be made to the cash working capital allowance

made by the Staff. This would reduce the net book investment rate base found by the majority $29,570.

SUMMARY STATEMENT SHOWING RESULTS OF FURTHER ACCOUNTING ADJUSTMENTS SUGGESTED IN THIS OPINION

We have suggested that the majority Commissioners erred in failing to make certain additional accounting adjustments in the financial statement covering Lee's fiscal operations during the test period. To summarize these adjustments, they include a credit of $33,143 for the excess profits derived by Centel Service Company from the sale of telephone equipment to Lee Telephone Company's North Carolina operations, the elimination of investment in telephone plant under construction of $318,052 from the net book investment rate base and the elimination of interest during construction of $12,306 from net income for return, and the credit of $29,570 to the cash working capital allowance, representing one-half month's local service billings made in advance. Such adjustments would increase the net income and additions available for return by $20,837 so that under existing rates the total of such income and additions for Lee's North Carolina operations would be $254,163, and that under the approved new rates, such income and additions would be $314,337.

The total net investment in telephone plant, plus allowed working capital, under these suggested adjustments, would be reduced $347,622, producing a net book investment rate base of $3,829,083 under existing rates and of $3,813,238 under the approved rates.

The adjusted net income and additions, applied to the adjusted net book investment rate base, produces a 6.64 percent rate of return under existing rates and a 8.24 percent rate of return under the newly approved rates. Although we have not attempted to establish a fair value rate base in this opinion, if the net book investment rate base produced by the adjustments herein suggested is multiplied by the factor (1.077) derived from the ratio of the majority's findings as to net book investment rate base and fair value rate base, a comparable fair value rate base of $4,124,000 is produced.

The net income and additions resulting from the further adjustments herein suggested, applied to said calculated fair value rate base, will produce a return under existing rates of 6.11% and under the newly approved rates of 7.62%.

The rates of return calculated under the further adjustments herein suggested, both on the net investment rate base and on fair value, are considerably higher than those found by the majority and, for that matter, are substantially more than the rate of return sought by the company. Further, these rates of return would be among the

highest, if not the highest, of any telephone company in North Carolina.

We have prepared a statement setting forth in tabular form the effect of these further adjustments, which is attached to this opinion as Exhibit No. 1.

We began this opinion by pointing out that the rates approved by the majority are the highest general telephone exchange rates in North Carolina and that these are being made to apply to a poor grade of telephone service. The majority order also permits the highest rates of return, after making the adjustments herein suggested, for a telephone company in North Carolina. We feel that the quality of telephone service must be substantially improved and the economic results of these improvements determined before we can give approval to the rates authorized under the majority order, and, we, therefore, dissent to the entry of said order.

M. Alexander Biggs, Jr., Commissioner
John W. McDevitt, Commissioner

FOOTNOTE REFERENCES

1 Transcript, Volume I
2 Testimony of witness Garnett (Transcript, Volume I) and witness Lamm (Transcript, Volume II, p. 77, et seq)
3 Garnett Exhibit No. I, p. 8
4 Garnett Exhibit No. I, p. 9
5 Transcript, Volume I, p. 22
6 Transcript, Volume IV, p. 195
7 Transcript, Volume II, p. 190, et seq
8 Transcript, Volume IV, p. 190
9 Transcript, Volume IV, p. 190
10 Staff Smith Exhibit No. 11
11 Statement of Income, Centel Service Company, Staff Smith Exhibit No. 11
12 Transcript, Volume IV, p. 192
13 Transcript, Volume IV, p. 192
14 Transcript, Volume IV, page 190
15 Column (8), Schedule I, Painter's Exhibit No. 1
16 Column (6), Schedule I, Painter's Exhibit No. 1
17 "Allowance for Working Capital", Schedule I, Painter's Exhibit No. 1
18 Transcript, Volume IV, p. 70

APPENDIX "A"

Lee Telephone Company
Docket No. P-29, Sub 61

ZONE MILEAGE CHARGES

ZONE	Miles Outside Base Rate Area Over - Through	1-Party Zone Charges	2-Party Zone Charges
1	0 - ½	0.60	0.40
2	½ - 2½	2.50	1.80
3	2½ - 4½	3.75	2.55
4	4½ - 6½	5.00	3.30
5	6½ - 8½	6.25	4.05
For each additional 2.0 mile zone or fraction thereof		1.25	0.75

STATEMENT SHOWING FURTHER ACCOUNTING ADJUSTMENTS
SUGGESTED IN DISSENTERS' OPINION REQUIRED FOR
PROPER DETERMINATION OF RATE OF RETURN - WITH COMPARISONS TO MAJORITY FINDINGS

	Majority Findings		Suggested	Resultant Findings	
	Under**** Existing Rates	Under New Rates	Additional Adjustments	Under Existing Rates	Under New Rates
Operating Revenues	$1,013,260	$	$	$1,013,260	$
Operating Revenue Deductions	796 218			796,218	
Net Operating Income	$ 217,042			$ 217,042	
Additions to Income:					
Station Growth Factor	3,978			3,978	
Interest During Construction	12,306		(12,306)		
Credit/Excess Profits Derived by Centel Service Co. From Sales to Lee			33 143	33 143	
Net Income & Additions for Return	$ 233,326	$ 292,500*	$ 20,837	$ 254,163	$ 314,337*
Investment in Telephone Plant:					
Telephone Plant in Service	$4,994,714	$4,994,714		$4,994,714	$4,994,714
Telephone Plant Under Constr.	318,052	318,052	(318,052)		
Less: Depreciation Reserve	(1,245,088)	(1,245,088)		(1,245,088)	(1,245,088)
Total Net Investment	$4,067,678	$4,067,678	$(318,052)	$3,749,626	$3,749,626
Working Capital Allowance:					
Materials & Supplies	82,418	82,418		82,418	82,418
Cash	36,494	36,494	(29,570)	6,924	6,924
Less: Avg. Tax Accruals	(9,885)	(25,730)**		(9,885)	(25,730)**
Total Working Capital	$ 109,027	$ 93,182	$ (29,570)	$ 79,457	$ 63,612
Total Net Investment Plus Working Capital	$4,176,705	$4,160,860	$(347,622)	$3,829,083	$3,813,238
Rate of Return on Net Investment Plus Working Capital	5.59%	7.03%		6.64%	8.24%
Fair Value	$4,500,000		1.077 x 3,829,083***	$4,124,000	
Rate of Return on Fair Value	5.19%	6.50%		6.11%	7.62%

Exhibit 1

* Figure taken from majority order, details of which are not specified in the order.

** Estimated by Commission Accounting Department in assisting the majority in reaching their decision.

*** Multiplier (1.077) is ratio of majority's fair value to majority's net investment. Multiplier is applied to net investment found by dissenters (after additional adjustments) to produce a fair value comparable to the majority's finding.

**** Notwithstanding inconsistencies in majority's findings, Staff Painter Exhibit 1, Schedule I, Column (6) figures are used.

DOCKET NO. P-55, SUB 578

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Southern Bell Telephone and Telegraph Company's) ORDER
Proposed Increases and Decreases in Certain Tele-)
phone Rates and Charges Scheduled to Become)
Effective January 1, 1969)

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, April 15, 16 & 17, 1969

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Respondent:

R. C. Howison, Jr.
Joyner, Moore & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina

Drury B. Thompson
General Attorney
Southern Bell Telephone and Telegraph Company
1245 Hurt Building
Atlanta, Georgia

Harvey L. Cosper
Attorney at Law

801 Jefferson Standard Building
Charlotte, North Carolina

For the Intervenors:

William T. Crisp
Crisp, Twiggs & Wells
Attorneys at Law
613 Branch Bank & Trust Building
P. O. Box 1549, Raleigh, North Carolina
For: North Carolina Consumers Council

For the Using and Consuming Public:

J. A. Benoy
Deputy Attorney General
Justice Building
Raleigh, North Carolina

George A. Goodwyn
Assistant Attorney General
Justice Building
Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
Ruffin Building
Raleigh, North Carolina

Larry G. Ford
Associate Commission Attorney
Ruffin Building
Raleigh, North Carolina

No Protestants

BY THE COMMISSION: On June 23, 1967, the North Carolina Utilities Commission (Commission) issued a memorandum notice to all telephone companies operating in North Carolina, setting forth the Commission's objectives with reference to reductions in multi-party service and rate and mileage differentials. Thereafter, on September 26, 1967, Southern Bell Telephone and Telegraph Company, North Carolina (Bell) responded to said memorandum and advised the Commission that it had already inaugurated zone charges in lieu of exchange line mileage charges, which plan by its nature had encouraged higher grades of service and a reduction of multi-party service in all exchanges. It was further stated that Bell planned to review all exchanges periodically with a view toward further reducing multi-party service. In November, 1967, the Federal Communications Commission made effective an increase in the amount allocated to North Carolina intrastate operations of Bell. The additional revenue thus realized by Bell for its intrastate operations was estimated to be $1,570,000 annually. Of this amount the

sum of $625,000 was consumed by reductions in intrastate toll rates ordered by the Commission and placed into effect on September 1, 1968.

On September 27, 1968, the Commission invited officials of Bell to attend a reported informal conference with the Commission in its offices on Friday, October 25, 1968, for the purpose of reviewing Bell's plan for applying the remaining balance of the additional revenue ($944,800) realized from the change in revenue requirements (Federal Communications Commission Order). On October 25, 1968, at the appointed time, officials of Bell met with the Commission as requested and presented a service improvement plan under the terms of which it proposed to make reductions in its present zone mileage charges and eliminate a backlog of unsatisfied requests for regrade to better service, said backlog having been created by the extension of base rate areas and the reduction of mileage charges. Bell presented data to the effect that reduced zone charges would result in a revenue loss of $860,000 annually and that additional annual costs associated with servicing accumulated regrade requests would amount to $3,600,000, offset by an annual revenue gain of $192,000. It was further stated that the reduced zone charges would likewise result in additional costs to service anticipated new demands for service amounting to $2,300,000 annually, offset by an annual revenue gain of $180,000. The total revenue effect of Bell's service improvement plan as outlined was estimated to involve annual revenue needs of $6,760,000 which it proposed to satisfy in part by applying the remaining balance of $944,800 of revenue realized under the aforementioned Federal Communications Commission Order. Bell proposed that by increasing the monthly charges for one-party residential telephone service by 50 cents per month, annual revenue in the amount of $3,025,000 would be produced; and by increasing new service connection charges from $8 to $10, annual revenue gain of $223,000 would result; and by increasing the charges for reconnecting, moving, changing or restoring a telephone service or extending a connection from $4 to $6, an annual revenue gain of $277,000 would result. The total revenues to be realized from said increases would be approximately $3,898,100 annually, leaving an estimated net loss of $1,917,100.

Following the reported informal conference, the Commission advised Bell that no decision would be made with reference to the need for public hearing with respect to the rate increases involved in the service improvement plan or to the scope of the inquiry except upon a filing by Bell of appropriate tariffs to effectuate the plan thus presented.

On November 29, 1968, Bell filed revised tariffs for the purpose of making all rate changes mentioned effective on January 1, 1969.

On December 5, 1968, the Attorney General of North Carolina intervened in this proceeding and requested the

Commission to investigate the proposed charges and rates specified in said tariffs and to order a public hearing of the matter at which all interested parties could be heard.

On December 9, 1968, at its regular conference with members of the Commission's Staff, the Commission fully considered and discussed Bell's tariff filings, and it was decided by the Commission, as the minutes of said conference will reflect, that the effective date of the increased rates and charges specified in said tariff should be suspended and formal investigation made into the justness and reasonableness of Bell's program as heretofore outlined; that a public hearing should be scheduled with respect to same at which the Respondent Bell would have the burden of proving the justness and reasonableness of its service improvement plan, of which the tariff filing is a part, and of the justness and reasonableness of the specific increases and decreases proposed, and further decided that the scope of inquiry in this matter would not be in the nature of a general rate case but would be confined to the reasonableness of the particular rates sought to be changed. It thereafter entered its Order of Suspension and Investigation on the 18th day of December, 1968, which, among other things, required that Bell give notice to the public of its tariff filings and of the time and place of hearing, and placed upon Bell the burden of proving that its proposed service improvement plan is just and reasonable.

This instant proceeding arose by virtue of the Order of Suspension and Investigation issued by the Commission on December 18, 1968, wherein the matter was set for hearing for January 7, 1969. At the call of the case for hearing on January 7, 1969, the Attorney General, the Assistant Attorney General, and the Deputy Attorney General appeared and, among other things, moved that the matter be continued for reasons set forth in the record. The request was granted and the hearing recessed until February 4, 1969. At the call of the case again on February 4, 1969, Respondent Bell requested a further continuance for the reason that its attorney was suffering a severe illness and therefore unable to appear to represent Respondent. Continuance was granted and the matter reset for April 15, 1969, at which time all parties were present.

Before the introduction of evidence by Bell, counsel for North Carolina Consumers Council addressed the Commission to the effect: ". . . I am here today only to state the position of the Council in support of the three motions and of the position taken by the Attorney General in his answer to the response of the company; and having spread that on the record, Mr. Chairman, I beg leave of the Commission for permission to absent myself from the hearing." (Rp 3). Leave was granted.

Whereupon Deputy Attorney General Benoy, representing the using and consuming public, renewed his motions heretofore filed, denied, and of record, namely: (1) motion to

dismiss; (2) motion for severance; and (3) motion to reconsider and strike that portion of the action of the Commission in declaring the matter before the Commission not to be a general rate case. Whereupon the Commission ruled as follows: ". . . motion to dismiss is denied. The motion for severance is denied, and the motion with reference to reconsidering or striking that portion or the action of the Commission in declaring this not to be a general rate case has been considered; and today we rule that this matter is not a general rate case; therefore, that motion is denied." (Rp 9-10).

Bell offered the testimony of Witnesses Groce, Garity, Selden and Corey in support of its proposed service improvement plan, all of which is set forth in the transcript of record in this proceeding. No testimony was offered, presented, or adduced by either intervenor in opposition to Respondent's proposals. The Commission's Staff offered testimony through Witnesses Chase and Smith, which testimony sought to evaluate the proposed program.

FINDINGS OF FACT

The Commission has carefully considered the testimony of each of the witnesses appearing in the cause, the conclusions of law and briefs and is now of the opinion and finds:

(1) That Southern Bell Telephone and Telegraph Company is a telephone utility rendering communications service in the State of North Carolina and heretofore authorized by this Commission to render such service.

(2) That Bell had in service in North Carolina at April 1, 1969, 1,104,011 telephones, 656,653 of which are main stations and PBX trunks, 545,457 residential, and 111,196 business.

(3) That the North Carolina Utilities Commission is constantly requesting and encouraging all telephone companies operating within the State of North Carolina to improve their telephone service in the areas which they are authorized to serve.

(4) That the North Carolina Utilities Commission has advised Bell and other telephone companies operating under its jurisdiction to take such steps as are reasonable to reduce their mileage charges for telephone service outside the base rate areas of their respective exchanges by applying zone rates and flat-rate services.

(5) That the North Carolina Utilities Commission recognizes the need for the elimination of multi-party service as rapidly as resources will permit.

(6) That the general public will be more adequately served by the elimination of mileage charges and multi-party service.

(7) That the program of Bell to eliminate, or decrease, mileage charges and to eliminate multi-party service is in the public interest.

(8) That the program of Bell to regrade those of its customers requesting a higher grade of service, that is to say, upgrade multi-party, four-party and two-party service to its premium one-party service, should be accomplished as rapidly as resources, including materials and supplies, will permit.

(9) That Bell should be permitted to retain the residue from the transfer of revenue requirements from intrastate to interstate resulting from the Federal Communications Commission's separations studies and orders in FCC Dockets Nos. 16258 and 17975 not heretofore consumed by the reduction in intrastate tolls for the purpose of carrying forward its proposed improvement in telephone service to its consumers.

(10) That that portion of its program wherein it requests authority to increase its charges for service connection charges on new connects and increase its charges for reconnects, moves, change, restoration, and extension service connection charges should be considered in a separate proceeding and that an order to that effect should issue.

(11) That that portion of its service improvement plan or program which seeks to increase the rates for one-party residence telephone service in the amount of 50 cents per month cannot be sustained based upon future prospective investment.

CONCLUSIONS

The service improvement plan as it relates to the implementation of the program which Bell has already begun is in substantial furtherance of the established goals of the Commission in the ultimate elimination of mileage charges and multi-party classes of service. It is our opinion and we conclude that Bell should continue this service improvement plan and we realize that it is possible that revenues resulting therefrom could fail to keep pace with investment. In consideration thereof, we are of the opinion and conclude that Bell should be allowed to retain the balance of intrastate revenue requirement transfer unaffected by the September 1, 1968, toll rate reduction, including the effect of the Federal Communications Commission's release of January 29, 1969, in accordance with Finding of Fact (9), and that the same will be in the public interest and tend to allow Bell to render that type of telephone service which its public is demanding.

It is further concluded that the Commission should deny that portion of Bell's program requesting authority to increase its charges for service connection charges on new connects and increase its charges for reconnects, moves, change, restoration, and extension service connection charges in that the same is to be considered by the Commission per its Order in Docket No. P-100, Sub 22.

We finally conclude that, as stated in Finding of Fact (11), we cannot approve Bell's request for an increase in one-party residential telephone rates in light of the fact that it is closely related to future prospective investment; however, Bell is advertent to its statutory relief should the service improvement program, as proposed and as will hereinafter be ordered, materially affect its ability to render adequate telephone service in the area it is authorized to serve.

IT IS THEREFORE ORDERED That Bell proceed to place into effect its proposed service improvement plan as it relates to reduction in zone charges, regrading of main stations, stimulated by zone charge reductions and the elimination of existing regrades.

IT IS FURTHER ORDERED That Bell be, and it is hereby, authorized to retain the balance of intrastate revenue requirement transfers unaffected by the toll rate reduction which became effective on September 1, 1968, including the effect of the order of the Federal Communications Commission released January 29, 1969, in Docket 17975.

IT IS FURTHER ORDERED That the tariff filings (application) in all other respects not herein approved be and the same are hereby disapproved.

IT IS FURTHER ORDERED That a copy of this order be transmitted to the Respondent and to each of the attorneys of record in this proceeding.

ISSUED BY ORDER OF THE COMMISSION.
This the 8th day of July, 1969.

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

DOCKET NO. P-7, SUB 446

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Carolina Telephone and Telegraph Company's Proposal) ORDER
to Adjust the Exchange Service Area Boundary Between)
its Lillington and Fayetteville Exchanges)

HEARD IN: The Commission's Hearing Room, Ruffin Building, Raleigh, North Carolina, on September 24, 1969, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Respondent:

Herbert H. Taylor, Jr.
Taylor, Brinson & Aycock
Attorneys at Law
P. O. Box 308, Tarboro, North Carolina

For the Intervenors:

W. A. Johnson
Attorney at Law
31 East Harnett Street
Lillington, North Carolina
For: William S. Wellons

Edward H. McCormick and Gerald Arnold
Woodall, McCormick & Arnold
Attorneys at Law
P. O. Box 38, Lillington, North Carolina
For: Harnett County
Richard Porter

For the Commission's Staff:

Edward B. Hipp
Commission Attorney

Larry G. Ford
Associate Commission Attorney

WOOTEN, COMMISSIONER: Carolina Telephone and Telegraph Company (hereinafter called the Company, or Respondent), filed with the Commission on March 25, 1969, Fifteenth Revised Fayetteville Exchange Service Area Map and Twelfth Revised Lillington Exchange Service Area Map, both to be effective May 18, 1969, to transfer an area presently served from the Lillington Exchange to the Fayetteville Exchange, the area being in the vicinity of Harnett County Road Numbers 1117, 1120 and 1121.

The Commission required the Respondent to give notice of the filing to all subscribers in the area in order to afford each an opportunity to express themselves on the proposal. The expressions received were not all in favor of the proposed transfer and the Commission was of the opinion that the matter was of public interest and therefore suspended

the said filing and set the same for formal hearing by order dated May 5, 1969.

A Petition to Intervene was filed with the Commission on June 27, 1969, by William S. Wellons through his Attorney, W. A. Johnson, Attorney at Law, Lillington, North Carolina. On July 2, 1969, the Commission issued its order allowing intervention.

The Commission issued various orders changing the hearing date, finally setting this matter for hearing at the date, time and place above specified, of which due, timely, appropriate and proper public notice was given by the Company in accord with the orders of this Commission, affidavit of the publication of which was introduced into evidence and made a part of the record.

On August 14, 1969, Harnett County filed a Petition to Intervene in this case as a political subdivision of the State of North Carolina, and for sufficient cause, its Petition to Intervene was allowed by the Commission's order dated September 19, 1969. The Petitions to Intervene were allowed in accord with Commission's Rule R1-19 which permits any person having an interest in any matter set for hearing on investigation pending before this Commission, to intervene in the same.

Upon the call of the matter, the Respondent presented its case through exhibits identified by its employee, Mr. E. D. Wooten. The Intervenors presented their cases through seventeen (17) witnesses who actually testified, and twelve (12) witnesses who were tendered for cross-examination. The case for the Commission's Staff was presented through exhibits identified through the testimony of Vern W. Chase, Commission Telephone Engineer.

The Respondent, at the beginning of the hearing and during the course of testimony through Witness E. D. Wooten, presented its Exhibits 5 and 6. Exhibit 5 purports to show the change in boundary requested through the map filings above referred to. Exhibit 6 purports to show a slight modification in the original map filings, slightly increasing the amount of territory involved in the proposed change, and the Respondent thereby requested the amendment of its map filings to agree with the map filed as Exhibit 6, for consideration by the Commission.

Upon consideration of the evidence, testimony and exhibits presented at the hearing in this matter and the appropriate and proper records of this Commission, the Commission makes the following

FINDINGS OF FACT

1. Carolina Telephone and Telegraph Company, the Respondent, under and in accord with the laws of the State of North Carolina, is authorized to do business in this

State as a duly created and existing corporation with headquarters located in Tarboro, North Carolina; the Respondent is a public utility providing general telephone service in North Carolina, and is subject to the jurisdiction of the North Carolina Utilities Commission.

The matter presented through the map filings in this case is one over which this Commission has jurisdiction.

2. The Company's Lillington Telephone Exchange adjoins the Company's Fayetteville Telephone Exchange and is located north thereof. The present boundary line between the two exchanges is one arbitrarily drawn to the extent that it does not adhere to any natural or political boundary.

3. All of the Lillington Exchange is located within this State's political subdivision designated as Harnett County; a portion of the southern end of Harnett County is presently located within the service area of the Fayetteville Telephone Exchange; and there are two telephone exchanges owned by the Respondent located within Harnett County as well as other telephone exchanges within the county owned by other operating telephone companies, between which there is no general extended area service.

4. Intervenor, William S. Wellons, and others began extensive mobile home developments within the area here involved during the year 1968, at which time, the Respondent had nine (9) telephone subscribers located in said area; at the time of the filing of the maps herein, the Respondent had the nine (9) original telephone subscribers and twenty (20) additional subscribers located within the mobile home developments; that at the time of the hearing, the Company had eight (8) of the original subscribers plus approximately forty-two (42) located within the mobile home developments. The extensive developments, in the area here involved, by the Intervenor Wellons and others, is and will be designed to serve and afford lodging for persons connected directly or indirectly with the U.S. Military Reservations and Operations located immediately south of the same; that the interest of such tenants relates directly to the Fayetteville Telephone Exchange with little or no interest relating to the Lillington Exchange, in that the employment, business, social, church, banking, and medical services are secured and rendered in the area served by the Fayetteville Exchange.

5. Three (3) residents of the area involved plus one (1) landowner, as well as the county school superintendent, testified in opposition to the boundary revision contemplated by the map filings in this case, and three (3) residents were tendered; and eleven witnesses testified favoring the revision and nine (9) were tendered.

6. The changes proposed, as set forth in Exhibit 6, are in the public interest and should be approved as the same

will serve the convenience of the great majority of the residents in the area involved.

Based upon the evidence and findings of fact, the Commission makes the following

CONCLUSIONS

1. That the Respondent is properly before the Commission and the subject matter of this filing is one over which this Commission has jurisdiction.

2. That the Respondent has carried the burden of satisfying the Commission that the changes proposed, as set forth in its Exhibit 6, are in the public interest and should be approved.

3. That the evidence here presented justifies the exchange boundary changes contemplated by Respondent's Exhibit 6.

4. That the proposed changes as set forth in Respondent's Exhibit 6 will serve the convenience of the great majority of the residents in the area involved.

IT IS, THEREFORE, ORDERED:

1. That the filing by the Company on March 25, 1969, of Fifteenth Revised Fayetteville and Twelfth Revised Lillington Exchange Service Area Maps, to transfer an area presently served from the Lillington Exchange to the Fayetteville Exchange, be, and the same is, hereby denied as filed.

2. That the Commission hereby approves the transfer of the portion of the Lillington Exchange service area reflected by Company's Exhibit 6 from the Lillington Exchange to the Fayetteville Exchange.

3. That the Company shall file with this Commission new revised exchange service area maps for both the Fayetteville and Lillington Telephone Exchanges which shall effectively transfer that portion of the Lillington Telephone Exchange service area as reflected in its Exhibit 6 herein, from the said Lillington Exchange to the Fayetteville Exchange, to be effective with the inauguration of service contemplated thereby and showing the effective date immediately after the same is determined.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of October, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. P-7, Sub 454

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Carolina Telephone and Telegraph Company's Tariff Changes to Extend the Havelock Base Rate Area and Regroup the Exchange from Group 3 Rates to Group 4 Rates) ORDER APPROVING TARIFF CHANGES

HEARD IN: The Commission's Hearing Room, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on September 17, 1969, at 10:00 A.M.

BEFORE: Chairman H. T. Westcott, Presiding, and Commissioners John W. McDevitt, M. Alexander Biggs, Jr., Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Respondent:

Hon. Herbert H. Taylor, Jr.
Taylor, Brinson & Aycock
Attorneys at Law
P. O. Box 308, Tarboro, North Carolina

For the Commission's Staff:

Edward B. Hipp
Commission Attorney

Larry G. Ford
Associate Commission Attorney

WOOTEN, COMMISSIONER: Carolina Telephone and Telegraph Company (hereinafter called the "Company" or the "Respondent") filed with the Commission on June 17, 1969, a Fourth Revised Base Rate Area Map and Eleventh Revised Local Exchange Tariff for the Havelock Exchange, both to become effective with the inauguration of service to the Cherry Point on-base unofficial subscribers. The Company in its filings represents that in response to the Department of the Navy's request of January 14, 1969, it expects to begin providing commercial telephone service to the U.S. Government's unofficial telephone subscribers located on the Marine Corps Air Station, Cherry Point, North Carolina, in December, 1969. Further, that throughout discussion with the Military, it was understood that service would be provided on the basis of: (1) the service being at the same rate as the subscribers within the Havelock base rate area, and (2) regrouping the Havelock Exchange to the Company's Statewide Rate Group corresponding to the calling scope, both of which are proposed in the Company's filing.

The Havelock Exchange is now in Group 3 of the Company's Statewide Rate Grouping which has a calling scope of 2001 to 4000 main stations and PBX trunks. The Havelock Exchange had 3,704 main stations and PBX trunks on May 31, 1969. The Company estimates that it will serve 857 main stations on the Military Base bringing the total well over the top limits of Group 3 Rates. Therefore, the Company is proposing to regroup this exchange from Group 3 Rates to Group 4 Rates, which, if done, would result in the following increases in Company's monthly charges for basic service:

Business one party	$1.00
Business two party	1.00
Business four party	.75
Residence one party	.50
Residence two party	.50
Residence four party	.50

The regrouping of the Havelock Exchange, sought by this filing would result in increases in monthly rates for all of the Havelock subscribers.

On June 27, 1969, the Commission, being of the opinion that the scope and effect of the filing justified consideration in a proceeding which would give all affected parties notice and an opportunity to be heard, if they so desired, issued its order requiring that public notice be given and setting the matter for formal hearing on September 17, 1969, at 10:00 A.M., and suspending the effective date of the tariff changes filed with the Commission on June 17, 1969, by the Company to and including March 1, 1970, or until further order of the Commission, whichever is earlier; and placed the burden of proving the justness and reasonableness of the changes proposed, upon the Company.

Upon the call of this matter for hearing no one was present to appear in opposition to the tariff filing, and no protests, formal, informal, or otherwise had previously been received by the Commission. In accord with the Order of the Commission, the Company advertised the "Notice of Hearing" in the Havelock Progress in Havelock, North Carolina, on September 4, 1969, and September 11, 1969; in addition thereto, local newspaper coverage in the Havelock Progress appeared in a front page headline article on August 14, 1969, entitled "Phone Rates Higher in December", and on the same date a copy of the "Notice of Hearing" was likewise published in said newspaper.

At the hearing, the Company presented its case through the testimony of E. D. Wooten, Rate and Tariff Supervisor in the Commercial Department of the Company. As stated above, no one was present to offer evidence in opposition to, or protest of, the changes contemplated and requested and no evidence was offered by the Commission's Staff.

Based upon the evidence presented and introduced at the hearing and the pertinent and appropriate records of the Commission, of which the Commission takes judicial notice, we find the following

FINDINGS OF FACT

1. Carolina Telephone and Telegraph Company under and in accord with the laws of the State of North Carolina, is authorized to do business in this State as a duly created and existing corporation with headquarters located in Tarboro, North Carolina, and is a public utility providing general telephone service in North Carolina and is subject to the jurisdiction of, and regulation by, this Commission.

2. The Company's Havelock Exchange is adjacent to the Military Reservation at Cherry Point which has heretofore supplied its own phone service to the exclusion of the Company on the base. In response to the Department of Navy's request, the Company proposes to extend its base rate area and construct new outside plant facilities into the Cherry Point base area, which is heavily developed and is included in the area for which the Company is certificated to serve.

3. The extension of the base rate area proposed will approximately double the length of the present base rate area and will result in an elongated base rate area of seven (7) miles in length and less than three (3) miles in width, and includes all of the heavily developed area.

4. The Company is in the process of constructing and establishing the necessary outside plant facilities for the extension of service onto the Military Base and has heretofore completed its new inside plant facilities expansion necessary to afford such service.

5. It is anticipated that the Company will serve an additional number of stations, at cut-over, initially in the total number of 1200 which includes 857 main stations and 343 extension stations.

6. It is anticipated that with the addition of the above stations, the total stations in the Havelock Exchange in December, 1969, which is the anticipated cut-over month, including the Cherry Point Base unofficial stations, will be 6,480 which includes 4,855 main stations plus PBX trunks and 1,625 extension services.

7. The regrouping of the Havelock Exchange will result in an increase in rates for all subscribers in the Havelock Exchange, however, the residence rates will be less than those in effect from November, 1957, through June, 1964, when the rates were revised downward by the Commission in order to make them agree with the Company's standard rate grouping based upon calling scope.

8. On May 31, 1969, the Havelock Exchange had 3,704 main stations and PBX trunks, well within Group 3 of the Company's Statewide Rate Grouping which has a calling scope of 2001 - 4000. With the addition of 857 new main stations, the Havelock Exchange will be serving main stations, plus PBX trunks which will bring its total well over the top limits of Group 3 Rates and place it within the range of Group 4 Rates which the Company here requests.

9. The Company estimates the expenditure for facilities necessary to serve the Cherry Point on-base housing will total $638,100.00; that the annual revenues resulting from regrouping of the present Havelock subscribers from Group 3 to Group 4 will amount to $27,705.00; and that the total additional revenue anticipated from the unofficial subscribers plus the additional revenue from the other subscribers will be $107,775.00.

10. The revenue requirements on the additional investments of $638,100.00 amount to $148,329.00, leaving a deficit after approval of the tariff changes here sought of $40,554.00.

11. It is anticipated that the Company will install all new equipment and will not purchase, lease, or receive as a gratuity, any of the existing facilities owned by the Military, which is in place and in operation on the Cherry Point Base. However, the Company admits through its witness that there is a possibility of the lease or purchase of some nominal portion of the telephone equipment from the Military.

12. That the rates and charges proposed by the regrouping in this case are just and reasonable and justified in the public interest.

CONCLUSIONS

1. Respondent, Carolina Telephone and Telegraph Company, is properly before the Commission, which has jurisdiction over the Company as to its utility rates and services in North Carolina and over the subject matter in these proceedings.

2. That the records of this Commission and the evidence presented justify the rates and charges herein sought through the tariff filing seeking to regroup the Havelock Exchange, at cut-over, from Group 3 Rates to Group 4 Rates.

3. That this is a regrouping which is justified and brought about through acceptance and acquisition of the Military unofficial telephone service area, and not by normal growth as is the usual case; and that the additional gross operating revenues to be derived will not be sufficient to service the initial capital investment required.

4. That there is an element of value to the ratepayer in having available to him, in a given exchange, a greater number of telephone subscribers which increases his calling scope and thereby makes available to him greater telephone usage possibilities, which may or may not, when considered in the light of all the circumstances of each particular case, justify regrouping in accord with tariffs heretofore filed by the Company and approved by this Commission.

5. The tariffs heretofore filed by the Company, and the tariff which is the subject of this proceeding require, that whenever the calling scope in any given exchange shall have experienced a growth, or a decrease, to a point within 5% of the group limitations indicated in said tariffs, the Company shall notify the Commission for such action as the Commission deems proper.

6. That the Company should keep the Commission advised through appropriate reports regarding its negotiations and transactions with the Military in connection with any purchase, lease, or gifts of any of the existing facilities owned by the Military, which is in place and in operation on the Cherry Point Base, purchased, leased or received by the Company from the Military to be used and useful in the providing of telephone service in the Havelock Exchange.

7. That the Company should report to the Commission the number of stations served in the Havelock Exchange at the time of "cut-over" and again six (6) months thereafter.

8. That the provisions of G.S. 62-133 are not applicable in this case and the Company has carried the burden of proof placed upon it by the Commission's Order of June 27, 1969, and the provisions of G.S. 62-137; that the rates here are just and reasonable and affect only a small part of the Company's rate structure in that it deals with a change of circumstances which does not affect the entire rate structure of the utility.

9. That the provisions of the Order of this Commission dated June 27, 1969, suspending the tariff changes in this case, filed with the Commission on June 17, 1969, by the Company, consisting of a Fourth Revised Base Rate Area Map and Eleventh Revised Local Exchange Tariff for the Havelock Exchange, should be withdrawn, suspended and declared of no force and effect and the tariff changes should be allowed to become effective with the inauguration of service to the Cherry Point on-base unofficial subscribers.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Order of Suspension entered herein on June 27, 1969, suspending the effective date of the revised base rate area map and local exchange tariff for the Company's Havelock Exchange is hereby cancelled and vacated and said Fourth Revised Base Rate Area Map and Eleventh Revised Local Exchange Tariff for the Havelock Exchange of the Respondent,

Carolina Telephone and Telegraph Company, are hereby approved and authorized to become effective with the inauguration of service to the Cherry Point on-base unofficial subscribers.

2. That the Respondent, Carolina Telephone and Telegraph Company, shall keep the Commission advised through appropriate reports regarding its negotiations and transactions with the U.S. Navy in connection with any purchase, lease, or gifts of any of the existing facilities owned by the Military which is in place and operation on the Cherry Point Base, purchased, leased or received by the Company from the U.S. Navy to be used and useful in the providing of telephone service in the Havelock Exchange.

3. That the Company shall report to the Commission the number of stations served in the Havelock Exchange at the time of "cut-over" and again six (6) months thereafter.

4. That the Company shall file a new base rate area map and local exchange tariff for its Havelock Exchange showing the effective date, immediately after the same is determined.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of September, 1969.

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

DOCKET NO. P-7, SUB 459

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Carolina Telephone and Telegraph Company's Tariff) ORDER
Filing for a New Service, an Alarm Coupler)

HEARD IN: The Commission's Hearing Room, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on Wednesday, September 17, 1969, at 2:00 P.M.

BEFORE: Chairman H. T. Westcott (Presiding) and Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten

APPEARANCES:

For the Respondent:

Herbert H. Taylor, Jr.
Taylor, Brinson & Aycock
Attorneys at Law
P. O. Box 308, Tarboro, North Carolina

For the Commission's Staff:

Edward B. Hipp
Commission Attorney

Larry G. Ford
Associate Commission Attorney

WOOTEN, COMMISSIONER: Carolina Telephone and Telegraph Company (hereinafter called the "Company" or the "Respondent") filed with the Commission on July 14, 1969, Original Sheets 1 and 2, Section 48 of its General Exchange Tariff covering a new service, an Alarm Coupler, for which a service connection charge and a monthly rental is requested. The tariff carries an effective date of August 15, 1969. Subsequent to the filing of said tariff, by the Company, protests were received by the Commission from the following companies protesting the filing: Crime Control of Eastern North Carolina, Inc., at Wilson, North Carolina; Crime Control of the Carolinas, Inc., at Charlotte, North Carolina, and Crime Control Research, Inc., at Raleigh, North Carolina. In the protest of Crime Control of Eastern North Carolina, Inc., at Wilson, North Carolina, a request was made for the opportunity to appear at a public hearing to oppose the tariff.

The Commission, being of the opinion that this matter was of public interest, and that said filing should therefore be suspended and set for hearing, issued its Order on July 29, 1969, suspending the effective date of said tariff to and including December 31, 1969, or until further order of the Commission, whichever is earlier, and set the matter for public hearing on September 17, 1969, at 2:00 P.M., in the Commission's Hearing Room in Raleigh, North Carolina, and placed the burden of proving the justness and reasonableness of the tariff filing upon the Company, Carolina Telephone and Telegraph. A copy of the Commission's Order of July 29, 1969, was sent to all parties having indicated interest in the matter as reflected by the Commission's files, including those companies above named, Respondent and Protestants.

Upon the call of the matter for hearing the Respondent presented one witness, E. D. Wooten, Rate and Tariff Supervisor in the Commercial Department of the Respondent.

Also testifying in the matter as Protestants for and on behalf of their respective companies, were George Robert Hammond, of Crime Control of Eastern North Carolina, Inc., at Wilson, North Carolina, and Van M. Sledd, of Crime Control of the Carolinas, Inc., at Charlotte, North Carolina. Mr. Vern Chase, Telephone Engineer on the Commission's Staff, made a short and unsworn statement.

Based upon the evidence presented and introduced at the hearing and the pertinent and appropriate records of the Commission, of which the Commission takes judicial notice, we find the following

FINDINGS OF FACT

1. Carolina Telephone and Telegraph Company by and in accord with the laws of the State of North Carolina, is authorized to do business in this State as a duly created and existing corporation with headquarters located in Tarboro, North Carolina, and is a public utility providing general telephone service in North Carolina and is subject to the jurisdiction of, and regulation by, this Commission.

2. The Respondent seeks through this tariff filing to prevent the connection of customer-provided alarm detection and reporting equipment with the facilities of the Company except through an "Alarm Coupler" furnished by the Telephone Company; the Alarm Coupler consists of a one-way interface unit which, in response to a signal from the customer's device, seizes the telephone line, transmits dial pulses corresponding to a predetermined telephone number and a prerecorded voice alarm report originated by the customer's device to the line and disconnects at the end of the report, and is to be furnished for use in connection with telephones associated with individual lines or dial PBX and Centrex station lines.

3. The customer-owned alarm detection and reporting devices are relatively new innovations in the field of crime prevention, and detection, as well as in the reporting of other types of alarms or emergencies; and is designed for use in many of its applications, by connection with telephone facilities and the use of such facilities.

4. The "Alarm Coupler" which the company proposes through this tariff filing, is designed to prevent the customer-owned alarm reporting device from causing off-hook busy conditions and to protect the dial network from unrestrained power which could disable central offices, injure telephone company employees and cause crosstalk and noise on circuits used by others.

5. The Respondent has had no previous experience in this field, and this is a new service offering and a new tariff. The only other telephone utility operating in this State which offers this service is Southern Bell Telephone and Telegraph Company which charges an installation, moves and changes charge of $20.00 and a monthly rate of $2.00. In this tariff filing the Company seeks an installation, moves and changes nonrecurring charge of $40.00 and a monthly rate of $6.00.

6. The evidence presented by the Respondent regarding its rates and charges is not sufficient to justify the rates and charges requested but does justify at this time an installation, moves and changes nonrecurring charge of $20.00 and a monthly rate of $4.00. The rates and charges as approved herein to wit: installation, moves and changes nonrecurring charges of $20.00 and a monthly rate of $4.00

in this case, are found to be just and reasonable and justified in the public interest.

CONCLUSIONS

1. Respondent, Carolina Telephone and Telegraph Company is properly before the Commission which has jurisdiction over the Company as to its utility rates and services in North Carolina and over the subject matter in these proceedings.

2. The records of this Commission and the evidence presented justify the rates and charges herein approved, to wit: installation, moves and changes nonrecurring charge of $20.00 and a monthly rate of $4.00.

3. That this is a new service for which there is a public need, and which is justified in the public interest, in order that the public may have available to it this new alarm reporting innovation and, at the same time, afford the requisite protection for other customers of the Company, for protection of the customer owning and using such device and for protection of the company's central office equipment and employees from unrestrained power which could cause damage and/or personal injury.

4. That because of the limited experience in this State with the matters covered by the tariff in this case, the Company should keep the Commission advised through appropriate annual reports regarding the installation and affording of the service and equipment contemplated by the tariff herein approved to be filed, which report should reflect the operating revenues and expenses generated therefrom.

5. That the provisions of G.S. 62-133 are not applicable in this case, and the Company has carried the burden of proof placed upon it by the Commission's Order of July 29, 1969, and the provisions of G.S. 62-137; that the rates as herein approved are just and reasonable and affect only a small part of the Company's rate structure in that it deals with the installation of a new, and anticipated to be limited, service which does not affect the entire rate structure of the utility.

6. That the filing by the Company on July 14, 1969, of Original Sheets 1 and 2, Section 48 of the Company's General Exchange Tariff covering the new service, an Alarm Coupler, for which a service connection charge and a monthly rental is requested, should be disapproved and the Company should file new tariff sheets setting forth a nonrecurring charge for installation, moves and changes of $20.00 and a monthly rate of $4.00, to be effective October 15, 1969.

IT IS, THEREFORE, ORDERED BY THE COMMISSION AS FOLLOWS:

1. That the filing by the Company on July 14, 1969, of Original Sheets 1 and 2, Section 48 of the Company's General Exchange Tariff covering the new service, an Alarm Coupler, for which a service connection charge and a monthly rental is requested be, and the same is, hereby denied.

2. That the Company shall file with the Commission new tariff sheets setting forth a nonrecurring charge for installation, moves and changes of $20.00 and a monthly rate of $4.00, to be effective October 15, 1969.

3. That the Company shall file annual reports regarding the installation and affording of the service and equipment contemplated by the tariff herein approved to be filed, which reports shall also reflect the operating revenues and expenses generated therefrom.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of September, 1969.

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

DOCKET NO. P-31, SUB 74

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Petition of Piedmont Telephone Membership) MODIFIED
Corporation and Churchland Mutual Telephone) ORDER UPON
Company, Inc., for Territorial Protection in) REOPENED
Accordance with the Agreement of Administrative) PROCEEDING
Procedure Between the North Carolina Utilities)
Commission and the North Carolina Rural)
Electrification Authority)

BEFORE: Chairman Harry T. Westcott, presiding, Commissioners John W. McDevitt, Clawson L. Williams, Jr., M. Alexander Biggs, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

William T. Crisp
Crisp, Twiggs & Wells
613 Branch Bank Building
Raleigh, North Carolina
For: Piedmont Telephone Membership Corp.
Churchland Mutual Telephone Co., Inc.

For the Respondents:

F. Kent Burns
Boyce, Burns & Smith
P. O. Box 1406, Raleigh, North Carolina
For: Lexington Telephone Company

P. G. Stoner
Stoner & Stoner
P. O. Box 356, Lexington, North Carolina
For: Lexington Telephone Company

BY THE COMMISSION: This proceeding originated before the Utilities Commission upon the Petition of Piedmont Telephone Membership Corporation (PIEDMONT) and Churchland Mutual Telephone Company, Inc. (CHURCHLAND) filed on September 12, 1968, seeking an Order of the Commission granting Piedmont territorial protection in the present Churchland service area to enable Piedmont and Churchland to effectuate their agreement for transfer of the Churchland telephone plant to Piedmont and subsequent service of the Churchland member-subscribers by Piedmont.

Following Answer filed to the Petition by Lexington Telephone Company (LEXINGTON) and public hearing held on January 14, 15, and 16, 1969, the Commission issued its Order in the proceeding on May 23, 1969, denying the protection of service area as applied for in the Petition of Piedmont and Churchland, without prejudice to the right of Piedmont and Churchland to continue their respective operations as described in the Order and as provided by the laws of North Carolina and the decisions of the Commission and the Courts of North Carolina. The Commission's Order further stated that Churchland was free to continue under its chosen form of organization or to elect such change of organization as may entitle it to seek assignment of such territory as is still open to assignment under the Agreement of Administrative Procedure as adopted by the North Carolina Utilities Commission and the North Carolina Rural Electrification Authority.

On May 29, 1969, Piedmont filed a Motion to Reopen Hearing, including proposed Amendments to the Application of Piedmont and, in the alternative, Preliminary Exceptions and Notice of Appeal and Motion for Further Hearing. On June 2, Lexington filed a Reply to Motion to Reopen Hearing and for Further Hearing, and the North Carolina Rural Electrification Authority (AUTHORITY) filed a Response to Piedmont's Motion to Reopen Hearing and file amended Application. Following hearing on said Motions, Replies and Response, the Commission on June 10, 1969, issued its Order reopening the proceeding for new evidence and staying the Order of the Commission of May 23, 1969, pending the said reopened proceeding.

The reopened proceeding was heard before the Full Commission on June 17, 1969, and the applicants Piedmont and

Churchland and the respondent Lexington appeared at the hearing through counsel of record and offered new evidence pursuant to the Order reopening the proceeding.

The proceeding is now before the Utilities Commission on the reopened proceeding for new evidence and the Motions and pleadings filed subsequent to the Order of May 23, 1969, and the evidence of record from the reopened proceeding heard on June 17, 1969.

At the hearing to receive new evidence, the applicants Piedmont and Churchland introduced into evidence a map as Piedmont's Exhibit 14, setting forth telephone service area boundaries proposed by Piedmont between Lexington and Piedmont, assigning an area shown as "Area B" to Lexington, represented to include in the assignment to Lexington all telephone plant facilities of Lexington which are presently devoted to public use in the disputed Churchland service area, and assigning the remaining "Area A" to Piedmont, representing the remainder of said disputed Churchland service area, in which Piedmont contends there are no existing telephone plant facilities of Lexington devoted to public use.

Piedmont offered the testimony of its witness, William Crownfield, telephone engineer employed by Yadkin Valley Telephone Membership Corporation, to describe the telephone facilities in said Area B and Area A and to explain the proposal of Piedmont and Churchland for establishment of a new boundary between Lexington and the former Churchland service area.

The amendment to the Petition filed by Piedmont and Churchland with the Motion to reopen proceeding contains admissions that subsequent to the filing of the original Petition on September 12, 1968, but prior to the hearings heretofore held in the Docket, that virtually all of Churchland subscribers, being at least 310, applied for and were accepted into membership by Piedmont, and that Piedmont and Churchland had effectuated their transfer agreement, and since January 1, 1969, Piedmont had acquired all of Churchland's rights and assets and assumed responsibility for Churchland's liabilities and obligations and service in the Churchland area.

The amendments to the original Petition further allege that the Petition is filed by Piedmont in its representative capacity for and on behalf of these member-subscribers who reside in the Churchland area and who were former subscribers of Churchland and who, pursuant to the Agreement of Administrative Procedure between the Utilities Commission and the North Carolina Rural Electrification Authority, are eligible for the relief prayed for to establish service area boundaries for Piedmont. The prayer contained in the Amended Petition seeks an Order from the Commission establishing a service area boundary between Lexington and Piedmont.

The petitioners Piedmont and Churchland further offered into evidence the following Exhibits:

Exhibit 14-A containing a metes and bounds legal description of Area A and Area B as above described on their proposed boundary map; and

Exhibit 15, a copy of the Agreement of Administrative Procedure as adopted by the North Carolina Utilities Commission and the North Carolina Rural Electrification Authority, setting forth provisions for establishing boundaries between public utility telephone companies regulated by the Utilities Commission and telephone membership corporations regulated by the North Carolina Rural Electrification Authority.

The Agreement of Administrative Procedure (Piedmont's Exhibit 15) was executed between the Commission and the Authority on December 31, 1957, and has been in effect at all times since said date of execution and has served a useful purpose in establishing boundaries between the telephone systems regulated by the said respective agencies to reduce duplication of telephone plants and systems and to avoid waste and confusion which would result from overlapping telephone systems. The lack of such boundaries would result in the community served by different telephone systems, with neither being able to perform the desired complete community public service. Such a duplication of systems is contrary to well-established and accepted principles of telephone engineering and is considered by this Commission and by other telephone regulatory agencies as being adverse to the public interest and contrary to the public convenience and necessity, and should be avoided where the respective regulatory agencies have authority to prevent such duplication.

The said Agreement of Administrative Procedure (Piedmont's Exhibit 15) contains a method whereby applicants for telephone service residing in the fringe areas of either a commercial telephone company or a telephone membership corporation desire service from either of such respective telephone systems may make their desire known, and in the event the telephone systems do not resolve the matter they may file petition with the North Carolina Utilities Commission seeking to be transferred to the service area requested by them. (Agreement, Piedmont's Exhibit 15, paragraph 2)

The proposed amendments to the Piedmont and Churchland Petition, as contained in the Motion to Reopen Hearing filed May 29, 1969, seek to clarify the scope and purpose of the proceeding to bring it more definitely and certain within the provisions of the Agreement for Administrative Procedure (Piedmont's Exhibit 15) for the establishment of a new boundary between Lexington and the former Churchland service area now served by Piedmont upon its acquisition from Churchland. The Commission is of the opinion that the

proposed amendments do not change or transform the cause of action in the original Petition, but serve to clarify the relief sought and to submit certain admissions relating to the position of Piedmont as successor to Churchland in the Churchland service area. Such allegations and admissions are within the scope of the original Petition as broadly construed and they conform with the evidence offered in the original hearing in January, 1969. The amendments do not constitute any surprise or change of the basic pleadings and in the interest of resolving this long controverted boundary area and relieving the need of the residents of the area for resolution of the conflicts so that they may receive telephone service presently denied in many instances due to this litigation, the Commission in its discretion allows the Motion of Piedmont and Churchland to amend the Petition as contained in the Motion to Reopen Hearing filed on May 29, 1969.

At the June 17, 1969 hearing, Piedmont and Churchland further offered the testimony of the following witnesses:

William McDonald, Manager of Yadkin Valley Telephone Membership Corporation (YADKIN VALLEY), a membership corporation with 7,300 members, testified that Yadkin Valley had entered into a management contract to manage the Piedmont telephone system including the Churchland service area acquired by Piedmont. This witness explained the Piedmont proposal as (1) to assign "Area B" in Piedmont map Exhibit 14 to Lexington, but to allow Piedmont to continue to serve all premises currently served by Piedmont in the area, with the further proposal that either Piedmont or Lexington would have the right to serve all premises currently served by either of the two telephone systems and to also serve such premises that they have presently served where they have retained for exclusive use of that premise of lines and facilities; (2) that any new premises that may be constructed in the area (Area B) or any other presently served premises that either Lexington or Piedmont would be free to serve based purely on the choice of the subscriber requesting service; and (3) that either Lexington Telephone Company or Piedmont could serve any premises in Area B which the other is entitled to serve, provided that the two telephone systems and the requesting subscribers agree to the service being requested. (R. pp. 49, 50) Mr. McDonald testified that such freedom of competition in Area B was justified on the basis that extensive duplication already existed in the Area B section, and ultimate customer choice was the best way to settle it. Mr. McDonald further testified that if all new business in Area B were given to one system or the other it would tend to solve the problem of mixed service in this area. (R. p. 52)

Lindsey Stafford, Secretary-Treasurer of Piedmont, was tendered to corroborate Mr. McDonald's testimony as to what Piedmont's proposal is regarding service in Area B.

Mr. Gwyn Price, Chairman of the North Carolina Rural Electrification Authority, testified as to the Agreement of Administrative Procedure (Piedmont's Exhibit 15), further identified as Authority's Exhibit I, describing the operation of the Agreement and the application of the Agreement to the disputed territory in this proceeding and giving his opinion that the Churchland subscribers represented in this proceeding were within the coverage of this Agreement with regard to the establishment of telephone service area boundaries between Piedmont as a membership corporation and Lexington. (R. pp. 66, 67, and 68)

Mr. H. C. Orrell, member of the Board of Directors of Piedmont and President of Churchland Board of Directors, testified that when Lexington extended service below Tyro that Churchland was already rendering service there.

The respondent Lexington tendered nine witnesses who were stated to have an interest in the proceeding and would like Lexington service. The witnesses did not testify.

Based upon the record, the admission in the pleadings, and the new evidence received at the proceeding on June 17, 1969, the Commission is of the opinion that the Order of May 23, 1969, should be reconsidered and modified in light of such new evidence, and to that end, based on such further evidence, makes the following additional Findings of Fact supplementing those heretofore made in the Order of May 23, 1969.

FINDINGS OF FACT

1. That virtually all of Churchland's former member-subscribers, being at least 310, have now become members of Piedmont.

2. That Churchland and Piedmont have effectuated their transfer agreement and Piedmont has acquired all of Churchland's assets and assumed responsibility of all of Churchland's liabilities and has rendered service to all of Churchland's former subscribers in the Churchland area.

3. The former Churchland members residing in the Churchland area who are now members of Piedmont are represented in this proceeding through their membership association, and by virtue of such membership association have applied for a boundary between their service area and the Lexington service area so that they may be assigned for service by Piedmont.

4. The Lexington physical telephone plant presently devoted to public use is in clearly defined locations and is located within Area B on Piedmont's Exhibit 14, and a new boundary for Lexington's service area can be assigned to protect all of Lexington's telephone plant presently devoted to public use without infringing on such telephone plant and without depriving Lexington of any of its present active

service areas or property or telephone plant now devoted to the public use, and still preserve a substantial portion of the former Churchland area reasonably intact to support Piedmont service for its members in the former Churchland area.

5. A new service area boundary can be fixed, as more particularly described in the description and the map hereinafter attached, which can assign to Lexington all of Area B, together with certain enlargement of such Area B to provide more natural boundaries for Lexington and a more logical and feasible exchange area, and to include certain areas where residents have sought Lexington service, and such new boundary area encompassing all of Area B, together with certain portions of Area A, will preserve all of Lexington's presently utilized rights and service area, and will not deprive Lexington of any of its existing telephone plant devoted to the use of the public.

6. That the remaining disputed territory, as shown by said description and map attached hereto and consisting of all of Area A which is not hereby assigned to Lexington, can be assigned to Piedmont under the Agreement of Administrative Procedure without taking away any rights of Lexington and without destroying the Churchland service area for Piedmont, providing the members of the former Churchland area who are now members of Piedmont who reside in the area assigned to Lexington may continue to receive Piedmont service so long as such present member of Piedmont resides at such premise and desires to retain such Piedmont service.

CONCLUSIONS

The service area boundary between Lexington and the former Churchland area has long been a source of controversy as recited in the original Commission Order of May 23, 1969. Lexington has been ordered to extend its lines on limited occasions to serve certain applicants residing in the former Churchland area on a piece-meal basis, but no overall proceeding to which Churchland or its members were parties has made any final settlement of the boundary between these telephone systems. The unsettled condition has been due partly to the organization of Churchland as a mutual company which has not been afforded the protection of a service area under North Carolina law. The succession of Piedmont as a telephone membership corporation to the Churchland area now affords the basis for fixing a boundary between the telephone systems under the Agreement of Administrative Procedure. This proceeding has been considered on the contentions of Lexington and Piedmont as to the desires of the residents of the Churchland area for service of these respective telephone systems. A great number of residents of the area appeared at the proceeding held in January of 1969. The reopened record is sufficient and complete for settlement of the service area boundary in this proceeding. The members of former Churchland residing in the disputed area who have joined Piedmont are now before the Commission

seeking assignment of a service area under the Agreement for Administrative Procedure, and the public interest and the public convenience and necessity require that such boundary be fixed in order that the long delays in settlement of this dispute may come to an end and the respective telephone systems may begin construction of the new plant badly needed to restore effective and adequate telephone service in the area.

In the fixing of the boundary between Lexington and Piedmont, as the telephone membership corporation now serving the area, the Commission is not bound by the precise proposal of either party. The controlling factor in fixing the service area boundary must be the public interest and the public convenience and necessity, and the allegations and contentions of the respective parties must yield to the public interest in this original determination of the boundary between the parties.

Lexington has extended its lines as it has been ordered to do in certain instances and as has been its right under G.S. 62-110 in other instances, and the existing lines of Lexington which are utilized in the present service to the public form the principal basis for the assignment of the Lexington boundary, as modified and enlarged to encompass a feasible area for natural extension of said lines and to avoid the corridor-type service area proposed for Lexington by Piedmont in Area B of Exhibit 14. To fix a corridor-type boundary for Lexington limited to the proposed 500 feet on each side of the highways on which Lexington lines now serve would establish isolated fingers surrounded by another telephone system and would lead to inevitable conflict and disputes and would not allow the normal and natural development of an area system in conformity with good engineering practices.

The Commission, therefore, finds that the boundary fixed in this proceeding should grant to Lexington not only those areas shown as Area B in Piedmont's Exhibit 14, but the additional encompassed areas included within a normal circumference of the existing lines, as more fully shown in the description and map attached hereto fixing such boundary.

The boundary, as described above, will thus assign to Piedmont all remaining portions of the disputed Churchland area and will include a substantial number of the 310 present members of the former Churchland area who have now joined Piedmont. This remaining Piedmont area is sufficiently large to support a telephone exchange and to provide the basis for the new 1-party flat rate telephone system proposed by Piedmont in the first hearing based on a new loan from the Rural Electrification Administration, providing Piedmont is given the right to continue to serve its existing members in the new Lexington area.

The members of the former Churchland who now belong to Piedmont and reside in the new Lexington area as fixed in this proceeding will therefore be protected by conditions attached to the boundary determination, permitting such present Piedmont-Churchland members to retain service from Piedmont at their present premises so long as such members remain at said premises and desire to retain such service. This limited overlapping system already exists as a result of the long continued dispute with no fixed boundary, and its temporary continuance by this protective device is a necessary transition measure deemed justified to preserve two feasible exchange areas. It will eventually be resolved as the present Piedmont members in the Lexington area are succeeded by persons at the premises who are not members of Piedmont and the premises will then be eligible only for Lexington service, or as such members might desire to change to Lexington service for convenience of neighborhood service.

The new boundary as fixed in the attached description and map affords the maximum possible franchise protection available to the existing telephone plant system of each respective telephone system. Neither party is deprived of any property presently used in public service. Each party may retain all of the facilities now in existence and devoted to service of the public. The areas hereby assigned to Lexington, which have heretofore been also served by Churchland, have not been vested in Churchland as a mutual company under North Carolina law, and by maintaining the right to serve existing customers in such areas, Piedmont is not deprived of any rights. It is true that Lexington alleges the extension of a telephone cable some short distance over the boundary as hereby fixed, on Highway 150 south of Churchland, and the purchase of a lot a short distance over said new boundary in the same vicinity, but the Piedmont testimony is that this Lexington cable does not serve any customers over the new boundary, and Lexington does not assert that it has any existing customers over the new boundary, nor that such property has been put into service in its existing telephone plant actually serving the public. No Lexington customers are attached to such cable over the boundary as fixed in this proceeding, and the existence of this property is not an appropriate basis for inclusion in the Lexington service area when the cable and the lot are in the heart of the Churchland area in the vicinity of the Churchland central office equipment and the main body of the Piedmont-Churchland members.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. A new telephone service area boundary is hereby established between Lexington and the former Churchland area now served by Piedmont in accordance with the metes and bounds description attached hereto as Exhibit A and the map attached hereto as Exhibit B, and Lexington is assigned the area lying east and north of said boundary, and Piedmont is

assigned the area lying west and south of said boundary, as shown on said Exhibits A and B.

2. Lexington shall have the exclusive right to serve all premises not already receiving Piedmont-Churchland service which are within the area assigned to Lexington by the fixing of the service area boundary in the attached Exhibits A and B, which includes the exclusive right to serve all existing Lexington customers and all new customers in its service area.

3. Piedmont shall have the exclusive right to serve all premises in the area assigned to Piedmont in the attached Exhibits A and B, and shall have the right to continue service to all of its existing member-customers in the area assigned to Lexington, so long as they desire to continue Piedmont service.

4. Existing members of Piedmont who are customers at premises within the Lexington area as assigned in Exhibits A and B and who desire to retain the service of Piedmont are hereby authorized to retain service from Piedmont so long as they remain customers in the existing premises presently receiving such Piedmont service. Any successor customers at such premises who are not now members of Piedmont as of the date of this Order are hereby assigned for service by Lexington.

5. The assignments made to both Lexington and Piedmont in this proceeding are based upon the assertions and contentions of both Lexington and Piedmont that they are ready, willing and able to serve their territory, and if after one year from the date of this Order each of said respective telephone systems has not completed or made substantial progress on the installation of modern telephone facilities to serve the areas as assigned in this proceeding, the proceeding may be reopened upon the Motion of any customer or occupant of said assigned areas to receive evidence as to adequacy of the telephone service rendered by said assigned telephone system and for reassignment of any such premises where service or the prospect of service under construction is found to be inadequate. The determination of adequacy of service in any such further proceeding shall be based upon the commitments and promises and proposals by the respective parties in this proceeding, including the evidence and testimony of both Lexington and Piedmont that they could provide modern efficient telephone service, and particularly the testimony of Piedmont that it could provide flat rate 1-party telephone service in the area assigned to it.

6. Three months after the effective date of this Order, Lexington and Piedmont shall file with the Commission their area coverage designs for service of the respective service areas assigned in this proceeding and their plans and proposals for financing the installation of said systems, and each three months thereafter each respective party shall

file with the Commission a report of its progress in the construction and installation and operation of such new telephone system.

ISSUED BY ORDER OF THE COMMISSION.

This 8th day of July, 1969.

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

DOCKET NO. P-31, SUB 74

EXHIBIT "A" ATTACHED TO THE MODIFIED ORDER UPON REOPENED PROCEEDING ISSUED JULY , 1969

DESCRIPTION OF TELEPHONE SERVICE AREA BOUNDARY BETWEEN LEXINGTON TELEPHONE COMPANY (LEXINGTON) AND PIEDMONT TELEPHONE MEMBERSHIP CORPORATION (PIEDMONT) ESTABLISHING AND ASSIGNING TELEPHONE SERVICE AREAS TO LEXINGTON AND PIEDMONT IN THE FORMER CHURCHLAND MUTUAL TELEPHONE COMPANY SERVICE AREA IN THE SOUTHWEST PORTION OF DAVIDSON COUNTY AND BOUNDED ON THE NORTH AND THE WEST AND THE SOUTH SIDES THEREOF BY THE YADKIN RIVER AND INCLUDING THE CHURCHLAND COMMUNITY AND THE AREAS ADJACENT TO SAID CHURCHLAND COMMUNITY AS DESCRIBED HEREIN.

All landmark references and map references used in this description refer to the landmarks and map references shown on Piedmont Exhibit 14 introduced into evidence at the June 17, 1969 hearing in this proceeding, being a map labeled "Proposed Boundary Churchland Exchange, Piedmont Telephone Membership Corporation, Route 3, Lexington, N. C., North Carolina 540".

DESCRIPTION OF BOUNDARY BETWEEN LEXINGTON AND PIEDMONT IN FORMER CHURCHLAND SERVICE AREA.

Beginning at the junction of Hartley's Creek and the Yadkin River as the northwestern origin point of said boundary; thence running in a straight line in a southerly direction to a point 500 feet from the intersection of SR 1169 and SR 1162 shown as Point 14 on said map; thence 500 feet to the intersection of SR 1162 and SR 1169; thence southerly along SR 1162 500 feet to Point 13; thence in a straight line southeasterly to the center of the circle at Churchland, being the intersection of N. C. 150 and SR 1165 at Churchland; thence in a straight line in an easterly direction to the intersection of SR 1161 and SR 1159; thence in a straight line southeastwardly to a point on First Creek lying 500 feet northeast from the point where First Creek crosses SR 1158; thence in a straight line in a southerly direction to the intersection of N. C. 150 and SR 1148, being Point 3 on said map; thence in a straight line southerly along the proposed boundary on said map, Exhibit 14, to a point on SR 1139 identified as Point 2 on said map;

thence in a southerly direction along the proposed boundary line shown on said map to a point on the Yadkin River identified as Point | on said map.

AREA ASSIGNED TO PIEDMONT

Pursuant to the above boundary line between Lexington and Piedmont, Piedmont is hereby assigned all that portion of the former Churchland area lying westerly and southerly from said above described boundary line between said boundary line and the Yadkin River.

LEXINGTON SERVICE AREA

Pursuant to the above described boundary line, Lexington is hereby assigned all that territory of the former Churchland service area lying northwardly and westwardly from said boundary line between said boundary line and the dotted line shown on said map, Exhibit |4, as the "AREA B" boundary, which the present Lexington service area encompasses and where said area hereby assigned to Lexington is merged into the areas heretofore assigned to Lexington.

Note: See attached map for Exhibit B.

DOCKET NO. W-177, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Brookwood Water Corporation, Cumberland County, North Carolina, for an Amendment to its Certificate of Public Convenience and Necessity in Order to Provide Water Service in Cumberland County, North Carolina, and for Approval of Rates) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Bldg., Raleigh, North Carolina, on March 18, 1969, at 10 A.M.

BEFORE: Chairman Harry T. Westcott, and Commissioners Clawson L. Williams, Jr. (Presiding), John W. McDevitt, M. Alexander Biggs, Jr. and Marvin R. Wooten

APPEARANCES:

For the Applicant:

L. Stacy Weaver, Jr., Esq.
McCoy, Weaver, Wiggins, Cleveland & Raper
Attorneys at Law
P. O. Box 1688, Fayetteville, North Carolina

For the Intervenors:

Herb Thorp, Esq.
Rose, Thorp & Rand
Attorneys at Law
P. O. Box 1239, Fayetteville, North Carolina
For: LaFayette Water Corporation

Earl J. Whitted, Jr., Esq.
Whitted & Cherry
Attorneys at Law
615 South George Street
Goldsboro, North Carolina
For: Touch & Flow Water Systems, Inc.

For the Commission Staff:

Edward B. Hipp, Commission Attorney
North Carolina Utilities Commission
Raleigh, North Carolina

Larry G. Ford, Associate Commission Attorney
North Carolina Utilities Commission
Raleigh, North Carolina

WILLIAMS, COMMISSIONERS: By application originally filed with the Commission on April 28, 1967, Brookwood Water Corporation sought to amend its Certificate of Public

Convenience and Necessity to provide water service to certain areas of Cumberland County, North Carolina. The original application was duly set for hearing and notice given. Various interventions were filed to the original petition, which interventions were subsequently withdrawn as appears of record.

The hearing was continued indefinitely at the request of applicant's attorney, subject to be set upon request of such attorney.

On February 26, 1968, applicant's attorney made a Motion for Leave to Amend the Application, which Motion was allowed by Order, dated May 6, 1968, and at the request of applicant's attorney received on September 11, 1968, the Commission entered an Order, dated January 7, 1969, setting the matter for hearing on the date shown in the caption and ordered that public notice be given of such hearing. Public notice was duly given as required by the Order of January 7, 1969, and the matter came on for hearing upon the amended application by Brookwood Water Corporation to provide water service to that certain area in Cumberland County, North Carolina set forth and more particularly described in Exhibit "A" attached hereto and incorporated herein by reference.

The intervenor, LaFayette Water Corporation, filed its Intervention on March 17, 1969, which Intervention was allowed. Intervenor, Tough & Flow Water System, Inc. appeared at the hearing through its counsel and was granted leave to intervene for whatever its interest might be made to appear.

From the testimony and exhibits received into evidence at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That Brookwood Water Corporation is duly incorporated under the laws of the State of North Carolina and is authorized by its Articles of Incorporation to engage in the public utility business of providing water service. The corporation's principal office is in Fayetteville, North Carolina and it is presently certificated by this Commission to provide water service to Glenbrook, Marlboro, Glenhaven, Sections 1 through 5 of Hollywood Heights, Brentwood, West Hills, Arran Lakes, Arran Hills, Emerald Gardens Subdivisions and two mobile home parks within the area sought to be certificated in this application, as amended.

2. That the area described in Exhibit "A" consists of approximately 5650 acres and is located approximately two to three miles from the City of Fayetteville, North Carolina. No other water utility company is presently certified to serve within the area applied for.

3. That the applicant proposes to provide water service to the area applied for and to any occupant therein who might apply for its service and proposes to construct wells, water lines, pumps, storage tanks and other facilities necessary and required to provide necessary service to the public within the area applied for.

4. That according to applicant's balance sheet of December 31, 1968, it had net utility plant in service valued at $329,375.22 and total assets of $351,525.39 and liabilities of $86,902.24 for the year and as of December 31, 1968, applicant had a net income from its operations, after taxes of $5,509.94.

5. That applicant's water system within the area applied for has been approved by the North Carolina State Board of Health and its water has been tested by said State Board of Health and found to be bacteriologically safe. Applicant is providing safe and reliable water service within its present system.

6. That the area applied for is a rapidly developing section of the State and the property therein is in great demand for residential housing and the public convenience and necessity requires that such area be provided with a safe and reliable water supply.

7. That the majority of the property owners within the area applied for desire the service proposed to be offered by the applicant and no protest has been made by any property owner within the area to the application.

8. That the applicant stands ready, willing, and is financially and otherwise able to provide the services proposed in the application.

9. That the applicant seeks approval of rates as follows

Residential Service

RATE

Metered:

First 3,000 gal. per month	$3.50
Next 7,000 gal. per month per 1,000 gal.	.50
Over 10,000 gal. per month per 1,000 gal.	.45
Trailer Charges: Flat rate per month per customer	2.00

CONNECTION CHARGES

Contribution-in-aid of construction - per service connection	$250.00

RECONNECTION CHARGES

N.C.U.C. Rule R7-20 (f) - $4.00
N.C.U.C. Rule R7-20 (g) - $2.00

BILLS DUE

All bills for service are due and payable at the office of the Company 10 days after the bill is rendered.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

This application is unique in its nature in that it seeks assignment to the applicant of a vast area of undeveloped land which is presently without water service, rather than making application for extension of service on a piecemeal basis as a small area develops. The Commission must determine in this matter whether the public convenience and necessity requires that so large an area be assigned to a particular supplier at one time.

The record discloses without question that the area involved, approximately 5650 acres, is situated near the City of Fayetteville in Cumberland County in a section that is rapidly developing and which is in great demand for residential housing.

It is the feeling of the Commission that the public convenience and necessity will be better served by assigning this area in large tracts rather than on a piecemeal basis as each subdivision therein may be developed. By doing so the certificated supplier will be afforded the opportunity of making long-range plans to provide service to the area and making necessary financial and other arrangements in order to extend its services in the future as demanded. It has been the Commission's experience that one large, financially sound and well staffed water company can provide more reliable service than can a small uneconomically operated company who serves a limited area. The granting of this application will relieve the applicant or other suppliers of the necessity of making applications to the Commission for Certificates of Public Convenience and Necessity on a piecemeal basis and will give developers within the area a source of water supply which they can rely upon without having to delay their plans to see if the Commission will approve an application by a small supplier to their particular development.

The applicant has borne the burden of proof that it stands ready, willing and able, financially and otherwise, to supply service to anyone within the area who might apply for such service and the applicant is reminded that it will be obligated to provide service to any one who applies therefor.

In short, the Commission is of the opinion that public convenience and necessity requires the Amendment of the Certificate as shown in the amended application and the schedules of rates herein proposed should be filed pursuant to G.S. 62-134.

IT IS, THEREFORE, ORDERED That the applicant, Brookwood Water Corporation be and it is hereby issued an amendment to its certificate for the construction, ownership and operation of a water system in that certain area of Cumberland County, North Carolina more particularly described in Exhibit "A" hereto attached and made a part hereof.

IT IS FURTHER ORDERED That the rates herein proposed be and they are hereby authorized to be filed pursuant to one day's notice pursuant to G.S. 62-134 and that the books and records of the applicant be kept in accordance with the Uniform System of Accounts established by this Commission for water utilities, and that the applicant be and is hereby required to operate this system in accordance with the rules and regulations of the North Carolina Utilities Commission for water utilities.

ISSUED BY ORDER OF THE COMMISSION.
This the 30th day of June, 1969.

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

DOCKET NO. W-177, SUB 4

EXHIBIT "A"

BEGINNING at a point in the run of Beaver Creek at its intersection with the northern line of Hollywood Heights, Section II, the north east corner of Lot 18, Block "A", Hollywood Heights, Section II, and running thence with the northern line of Hollywood Heights, Section II, in a westerly direction approximately 925 feet to a point; thence with the northeastern line of Hollywood Heights, Section III, in a northwesterly direction with Langdon's line about 800 feet to a point in the eastern line of the property of Thomas Wood, et al (formerly Faircloth); thence with Wood's (formerly Faircloth's) eastern line and the western line of Hollywood Heights in a southerly direction about 880 feet to the southeast corner of the Wood (formerly Faircloth) land, said corner being the rear corner between lots 19 and 20 of Hollywood Heights, Section IV; thence with the southern line of the Wood (formerly Faircloth) land and the northern line of Hollywood Heights, Section IV and V, North 83° West about 640 feet to a stake at the northwest corner of Lot 52, Hollywood Heights, Section V, also being the northeast corner of Lot 84, Hollywood Heights, Section VI; thence with the eastern line of Hollywood Heights, Section VI, South 07° West, about 1350 feet to the run of Mill Branch, a tributary of Beaver Creek; thence with the run of Mill Branch as it

meanders in a northerly and westerly direction crossing the Cliffdale Road approximately 8300 feet to a point in the run of Mill Branch at the northern extension of the eastern line of the sixth tract of a deed from Monroe to Wright, et al, as recorded in Book 1077, Page 564; thence with the extension of the eastern line of the sixth tract of the Wright Property, South 18° 35' West about 500 feet to a point in the southern margin of the Cliffdale Road, said point being the northeastern corner of the above mentioned sixth tract of the Wright Property; thence with the eastern and southern lines of the Wright property as follows: South 18° 35' West, 430 feet to a corner; South 27° 00' West 1188 feet to a corner; South 52° 45' East, 321 feet to a corner; South 45° 15' West, 745 feet to a corner; North 86° West, 560 feet to a point in the center of S. R. 1409; thence continuing with the southern line of the Wright Property and beyond, North 84° 45' East, approximately 2900 feet to a point 200 feet West of the western margin of Blackjack Road (S.R. 1403); thence with a line parallel to and 200 feet west of the western margin of Blackjack Road in a southwesterly direction about 8700 feet to the center of Highway 401; thence due South, 2800 feet more or less to the run of Bones Creek; thence with the run of Bones Creek as it meanders in a southeasterly direction, about 4000 feet to its intersection with Little Rockfish Creek; thence down the run of Little Rockfish Creek as it meanders in a southwesterly direction about 2800 feet to the intersection with W. T. Barbour's (formerly H. A. Cook) western line; thence with Barbour's Western line South 20° 50' West, 1858 feet to the center of Strickland Bridge Road (S.R. 1104); thence with the center of Strickland Bridge Road in an easterly direction 1850 feet more or less to the center of Little Rockfish Creek; thence down the run of Little Rockfish Creek in a southeasterly direction about 4000 feet to the intersection of the run of Beaver Creek with a straight line between the road intersection of S. R. 1100 - S. R. 1109 and the road intersection S. R. 1106 - S. R. 1141; thence with said straight line about North 50° East, approximately 9200 feet to the road intersection S. R. 1106 - S. R. 1141; thence with the southern line of Arran Lake, Section VI (Shenandoah) East 1771.3 feet; thence with the eastern line, North 01° West 1750 feet to the southern margin of Shenandoah Drive; thence with the southern margin of Shenandoah Drive, North 51° East, about 500 feet to the southern line of Arran Lake, Section VI; thence with the southern line of Arran Lake, Section VI, South 66° East, about 1800 feet to the run of Beaver Creek; thence up the run of Beaver Creek, 12,000 feet more or less to the beginning containing 5650 acres, more or less.

All the land now served by Brookwood Water Corporation lies within the above described area.

SAVE AND EXCEPT from the above described 5650 acres all of the land conveyed to L. C. Pritchett and wife, Belle W. Pritchett by W. Wade Bunch and Wife, Ruth E. Bunch in a deed

recorded in Book 580, Page 164, Cumberland County Registry and known as Larry's Mobile Home Park.

ALSO SAVE AND EXCEPT all that portion of that certain tract of land known as Pritchett's Mobile Home Park which may lie within the above described 5650 acres, more or less.

DOCKET NO. W-177, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Brookwood Water Corporation, Fayetteville, North Carolina, for an Amendment to its Certificate of Public Convenience and Necessity in order that it might provide water service in the Rollingwood Subdivision, Cumberland County, North Carolina, and for approval of rates	) ORDER AMENDING CERTIFICATE

HEARD IN: The Hearing Room of the Commission, Old State Library Building, Raleigh, North Carolina, on January 31, 1969

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Marvin R. Wooten

APPEARANCES:

For the Applicant:

L. Stacy Weaver, Jr.
McCoy, Weaver, Wiggins, Cleveland & Raper
P. O. Box 1688, Fayetteville, North Carolina

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney
Raleigh, North Carolina

No Protestants

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on July 22, 1968, by Brookwood Water Corporation, Fayetteville, North Carolina, wherein the applicant seeks an amendment to its Certificate of Public Convenience and Necessity in order to own, construct, operate and maintain wells, water pumps, water supply lines and to distribute and sell water to customers in an area known as Rollingwood Subdivision located in Cumberland County approximately one mile northwest of the City of Fayetteville which area is more specifically described in Applicant's Exhibit No. 15 herein, to which reference is

made for complete description. The applicant further seeks approval of rates for service.

The application came on for hearing at the time and place above mentioned pursuant to Notice of Hearing issued by the Commission on December 6, 1968. At said hearing evidence was adduced consisting of oral testimony and certain documentary evidence.

FINDINGS OF FACT

Based upon the evidence thus adduced, the Commission finds the following facts:

1. That the applicant is a duly organized and existing corporation under the laws of the State of North Carolina with its principal office in Fayetteville, North Carolina.

2. That the applicant has been issued a Certificate of Public Convenience and Necessity by this Commission and pursuant to that authorization is providing water service to various subdivisions in Cumberland County, North Carolina.

3. That the owners and developers of Rollingwood Subdivision in Cumberland County, North Carolina, have requested the applicant to provide a water system in said subdivision and have deeded to the applicant the title to the land upon which the wells are located and easements for the placement of water distribution lines in said subdivision.

4. That the applicant is now proposing to construct wells, pumps, storage tanks, distribution lines and metering equipment and to distribute and sell water through said facilities to approximately 91 customers in the Rollingwood Subdivision as shown on Applicant's Exhibit No. 15 entitled "Topographical Map of L. R. Baker and W. G. Pleasant, Preliminary Water Plan, Carvers Creek Twnshp., Cumberland Co., N.C.", dated July 7, 1967, by Moorman & Little, Inc., Engineers.

5. That the applicant has had the detailed plans of its proposed water system approved by the N.C. State Board of Health under Serial No. 6587.

6. That the applicant has had the water from Well No. 1 analyzed and from said analysis the water from this well meets the U.S. Public Health Drinking Water Standards - 1962. The analysis of the water sample collected from Well No. 2 indicates that this water does not meet the U. S. Public Health Drinking Water Standards - 1962, and that further tests or treatment is required.

7. That the applicant maintains an office in Fayetteville, North Carolina, for the purpose of collecting bills, handling service requests and for maintenance and upkeep for its water systems in Cumberland County.

8. That the Rollingwood Subdivision is located outside the corporate limits of any municipality and beyond the reach of any existing water system, and the water supply which applicant proposes to furnish to the residents of said subdivision is the only available economical water supply.

9. That the applicant proposes to charge the same rates and charges heretofore authorized by this Commission for service.

WATER RATE SCHEDULE

Residential Service

RATE

Metered:

First 3,000 gal. per month (minimum bill)	$3.50
Next 7,000 gal. per month per 1,000 gal.	.50
Over 10,000 gal. per month per 1,000 gal.	.45
Trailer charges: Flat rate per month per customer	2.00

CONNECTION CHARGES

Contribution in aid of construction - per service connection	$250.00

10. That the applicant estimates that the installed cost of the water system as herein proposed, including the second well, is approximately $31,563.

11. That the applicant is in all respects fit, willing and able to provide water service in the area described above.

CONCLUSIONS

Based upon the foregoing Findings of Fact, the Commission concludes that there is a demand and need for water service in the area shown on the map above referred to, which need and demand cannot be filled or met economically by any other supplier, and that the public convenience and necessity will be served by the granting of an amendment to the Certificate of Public Convenience and Necessity to the applicant as proposed herein.

IT IS, THEREFORE, ORDERED That the Certificate of Public Convenience and Necessity heretofore issued to Brookwood Water Corporation for the provision of water service in Cumberland County be and is hereby amended so as to authorize Brookwood Water Corporation to provide water service in the Rollingwood Subdivision, Cumberland County, North Carolina, which area is shown on Applicant's Exhibit No. 15, made a part hereof by reference.

IT IS FURTHER ORDERED that the applicant, prior to the connecting of Well No. 2 to the water system, shall provide this Commission with proof that the water from this well meets the U.S. Public Health Drinking Water Standards - 1962 by documentary evidence of the water analysis from Well No. 2 to be filed with the Commission.

IT IS FURTHER ORDERED that the applicant shall maintain its books and records in accordance with the Uniform System of Accounts adopted by this Commission, and that it shall otherwise comply in all respects with the rules and regulations of the Commission.

IT IS FURTHER ORDERED that the applicant shall abide by the Rules and Regulations of the North Carolina Utilities Commission pertaining to water companies.

IT IS FURTHER ORDERED that the applicant be and is hereby authorized to file the rates proposed herein for service, which schedule of rates is hereby authorized to become effective on one day's notice.

ISSUED BY ORDER OF THE COMMISSION.
This the 24th day of February, 1969.

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

DOCKET NO. W-177, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Brookwood Water Corporation, Fayetteville, North Carolina, for an Amendment to its Certificate of Public Convenience and Necessity in order that it might provide water service in the Pine Ridge Subdivision, Cumberland County, North Carolina, and for approval of rates) ORDER AMENDING CERTIFICATE

HEARD IN: The Hearing Room of the Commission, Old State Library Building, Raleigh, North Carolina, on January 31, 1969

BEFORE: Commissioners M. Alexander Biggs, Jr. (presiding), John W. McDevitt and Marvin R. Wooten

APPEARANCES:

For the Applicant:

L. Stacy Weaver, Jr.
McCoy, Weaver, Wiggins, Cleveland & Raper
P. O. Box 1688, Fayetteville, North Carolina

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney
Raleigh, North Carolina

No Protestants

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on January 17, 1969, by Brookwood Water Corporation, Fayetteville, North Carolina, wherein the applicant seeks an amendment to its Certificate of Public Convenience and Necessity in order to own, construct, operate and maintain wells, water pumps, water supply lines and to distribute and sell water to customers in an area known as Pine Ridge Subdivision located in Cumberland County approximately one and one-fourth miles northwest of the City of Fayetteville which area is more specifically described in Applicant's Exhibit No. 3 herein, to which reference is made for complete description. The applicant further seeks approval of rates for service.

The application came on for hearing at the time and place above mentioned pursuant to Notice of Hearing issued by the Commission on January 20, 1969. At said hearing evidence was adduced consisting of oral testimony and certain documentary evidence.

FINDINGS OF FACT

Based upon the evidence thus adduced, the Commission finds the following facts:

1. That the applicant is a duly organized and existing corporation under the laws of the State of North Carolina with its principal office in Fayetteville, North Carolina.

2. That the applicant has been issued a Certificate of Public Convenience and Necessity by this Commission, and pursuant to that authorization is providing water service to various subdivisions in Cumberland County, North Carolina.

3. That the owners and developers of Pine Ridge Subdivision in Cumberland County, North Carolina, have requested the applicant to provide a water system in said subdivision and have deeded to the applicant the title to the land upon which the wells are located and easements for the placement of water distribution lines in said subdivision.

4. That the applicant is now proposing to construct wells, pumps, storage tanks, distribution lines and metering equipment and to distribute and sell water through said facilities to approximately 138 customers in the Pine Ridge Subdivision as shown on Applicant's Exhibit No. 3 entitled "Land Served by Brookwood Water Corporation, Pine Ridge

Subdivision, Carvers Creek Twp., Cumb. Co., N. C.", dated Oct., 1968, by Moorman & Little, Inc.

5. That the applicant has had the detailed plans of its proposed water system approved by the N.C. State Board of Health under Serial No. 6826.

6. That the applicant has had the water from Well No. 1 analyzed and from said analysis the water from this well meets the U.S. Public Health Drinking Water Standards - 1962 except that treatment is required to increase the pH to a noncorrosive state. Analysis of the water sample collected from Well No. 2 indicates that this water does not meet the U.S. Public Health Drinking Water Standards - 1962, and that further tests or treatment is required.

7. That the applicant maintains an office in Fayetteville, North Carolina, for the purpose of collecting bills, handling service requests and for maintenance and upkeep for its water systems in Cumberland County.

8. That the Pine Ridge Subdivision is located outside the corporate limits of any municipality and beyond the reach of any existing water system, and the water supply which applicant proposes to furnish to the residents of said subdivision is the only available economical water supply.

9. That the applicant proposes to charge the same rates and charges heretofore authorized by this Commission for service.

WATER RATE SCHEDULE

Residential Service

RATE

Metered:

First 3,000 gal. per month (minimum bill)	$3.50
Next 7,000 gal. per month per 1,000 gal.	.50
Over 10,000 gal. per month per 1,000 gal.	.45
Trailer charges: Flat rate per month per customer	2.00

CONNECTION CHARGES

Contribution in aid of construction - per service connection	$250.00

10. That the applicant estimates that the installed cost of the water system as herein proposed, including the second well, is approximately $41,469.

11. That the applicant is in all respects fit, willing and able to provide water service in the area described above.

CONCLUSIONS

Based upon the foregoing Findings of Fact, the Commission concludes that there is a demand and need for water service in the area shown on the map above referred to, which need and demand cannot be filled or met economically by any other supplier, and that the public convenience and necessity will be served by the granting of an amendment to the Certificate of Public Convenience and Necessity to the applicant as proposed herein.

IT IS, THEREFORE, ORDERED that the Certificate of Public Convenience and Necessity heretofore issued to Brookwood Water Corporation for the provision of water service in Cumberland County be and is hereby amended so as to authorize Brookwood Water Corporation to provide water service in the Pine Ridge Subdivision, Cumberland County, North Carolina, which area is shown on Applicant's Exhibit No. 3, made a part hereof by reference.

IT IS FURTHER ORDERED that the applicant, prior to the connecting of Well No. 2 to the water system, shall provide the Commission with proof that the water from this well meets the U.S. Public Health Drinking Water Standards - 1962 by documentary evidence of the water analysis from Well No. 2 to be filed with the Commission and further, that suitable treatment shall be provided on Wells No. 1 and 2 in order to raise the pH to approximately 7.0.

IT IS FURTHER ORDERED that the applicant shall maintain its books and records in accordance with the Uniform System of Accounts adopted by this Commission, and that it shall otherwise comply in all respects with the rules and regulations of the Commission.

IT IS FURTHER ORDERED that the applicant shall abide by the Rules and Regulations of the North Carolina Utilities Commission pertaining to water companies.

IT IS FURTHER ORDERED that the applicant be and is hereby authorized to file the rates proposed herein for service, which schedule of rates is hereby authorized to become effective on one day's notice.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of February, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. S-5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Carmel Country Club, Inc., Charlotte, North Carolina, for a Certificate of Public Convenience and Necessity to operate and maintain a sewerage treatment plant and collection system in the Carmel Club Estates - West Subdivision, Mecklenburg County, North Carolina, and for approval of rates	)	RECOMMENDED ORDER

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on April 25, 1969, at 10:00 A.M.

BEFORE: Commissioner Marvin R. Wooten

APPEARANCES:

For the Applicant:

Robert C. Hord, Jr.
Fairley, Hamrick, Montieth & Cobb
Attorneys at Law
200 Law Building
Charlotte, North Carolina 28202

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney

No Protestants

WOOTEN, COMMISSIONER: Application was filed with the North Carolina Utilities Commission by Carmel Country Club, Inc., 4735 Carmel Road, Charlotte, North Carolina 28211, on February 3, 1969, wherein the applicant seeks authority to operate and maintain a sewerage collection and treatment system in Mecklenburg County, North Carolina, such sewerage system is located 2.5 miles from the City of Charlotte, North Carolina, adjacent to Highway No. SR 3652 in a Subdivision named "Carmel Club Estates - West". Order was entered by the Commission on March 10, 1969, setting the application for hearing at 10:00 A.M., Friday, April 25, 1969, and directing that a notice of hearing be published as therein prescribed.

The matter came on for hearing at the time and place specified in the order, at which applicant appeared and presented evidence consisting of the testimony of an engineer, Clyde Robinson, from Gastonia, North Carolina, and certain documentary exhibits.

Based upon the evidence adduced at the hearing, the Hearing Commissioner finds that the applicant is a duly organized and existing corporation; that it is the owner of Carmel Club Estates - West, and its developer, which said subdivision is located in Mecklenburg County, North Carolina; that the applicant has caused certain detailed engineering plans to be prepared with respect to the construction of a sewerage system in said Carmel Club Estates - West, which development it owns, which plans have been submitted to and approved by the North Carolina Board of Water and Air Resources; that there is no public sewerage system in said subdivision or within the reasonable reach of the same; and that there is a need in said subdivision for such sewerage system.

It is concluded that the applicant is fit, willing and able to provide the sewerage service specified in the application and that the public convenience and necessity requires that it be granted authority to own, operate and maintain such sewerage collection and treatment system for said Carmel Club Estates - West Subdivision. The rates as presented for approval are just, reasonable and equitable.

IT IS, THEREFORE, ORDERED that the applicant be, and it is, hereby granted a certificate of public convenience and necessity to own, operate, and maintain a sewerage collection and treatment system in Carmel Club Estates - West, located in Mecklenburg County, North Carolina, 2.5 miles from the City of Charlotte adjacent to Highway No. SR 3652, fully identified on maps received into evidence in this case and made a part hereof by reference, with this order itself to constitute said certificate.

IT IS FURTHER ORDERED that the applicant shall keep and maintain records in accordance with the Uniform System of Accounts and of the pertinent rules and regulations of the Commission and shall file such reports and information as may be required under said rules; and IT IS FURTHER ORDERED that the schedule of rates specified in Exhibit C of the evidence, and published in accord with the Commission's order heretofore entered, be, and the same are, hereby approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of May, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. W-43, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of LaFayette Water Corporation for an Amendment to its Certificate of Public Convenience and Necessity and for Approval of Rates) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina on June 11, 1969, at 9:30 a.m.

BEFORE: Commissioners Clawson L. Williams, Jr., Presiding, M. Alexander Biggs, Jr. and Marvin R. Wooten

APPEARANCES:

For the Applicant:

Herb Thorp, Esq.
Rose, Thorp, & Rand
Attorney at Law
P. O. Box 1239, Fayetteville, N. C.

For the Intervenors:

J. Duane Gilliam, Esq.
Attorney at Law
P. O. Box 629, Fayetteville, N. C. 28302
For: Crystal Springs Water Company, Inc.

Rudolph G. Singleton, Jr., Esq.
Nance, Collier, Singleton, Kirkman & Herndon
Attorneys at Law
Drawer 1210, Fayetteville, N. C. 28302
For: LaGrange Water Works Corp.

L. Stacy Weaver, Jr., Esq.
McCoy, Weaver, Wiggins, Cleveland & Raper
Attorneys at Law
P. O. Box 1688, Fayetteville, North Carolina
For: Brookwood Water Corp.

For the Commission Staff:

Larry G. Ford, Esq.
Associate Commission Attorney

WILLIAMS, COMMISSIONER: By application originally filed with the Commission on June 22, 1967, LaFayette Water Corporation sought to amend its Certificate of Public Convenience and Necessity to provide water service to certain areas of Cumberland County, North Carolina.

Since applications had been filed seeking Certificates of Public Convenience and Necessity which overlap or duplicate each other in material but varying respects, this matter was continued indefinitely at the request of applicant's attorney, subject to be set upon request of such attorney.

On March 21, 1969, applicant's attorney made a motion for leave to amend the application, which motion was allowed by Order, dated March 26, 1969, and the matter was set for hearing on the date shown in the caption and it was ordered that public notice be given of such hearing. Public notice was duly given as required by the Order of March 21, 1969, and the matter came on for hearing upon the amended application by LaFayette Water Corporation to provide water service to that certain area in Cumberland County, North Carolina set forth and more particularly described in Exhibits "A" and "B" attached hereto and incorporated herein by reference.

Intervenors, LaGrange Water Works Corp., Brookwood Water Corporation, and Crystal Springs Water Company, Inc. appeared at the hearing through their counsel and were granted leave to intervene for whatever their interest might be made to appear.

From the testimony and exhibits received into evidence at the hearing, the Commission makes the following

FINDINGS OF FACT

1. That LaFayette Water Corporation is duly incorporated under the laws of the State of North Carolina and is authorized by its Articles of Incorporation to engage in the public utility business of providing water service. The corporation's principal office is in Fayetteville, North Carolina and it is presently certificated by this Commission to provide water service to Lafayette Village, Welmar Heights, Evergreen Estates, Drake Park, Gallup Acres, Ashton Forest, Montclair, Queensdale, Sunny Acres, Cottonade, Summer Hill, and Pleasant Valley Subdivisions within the area sought to be certificated in this application, as amended.

2. That the area described in Exhibits "A" and "B" and shown on Exhibits "A-1" and "B-1" is located approximately two to three miles from the City of Fayetteville, North Carolina. No other water utility company is presently certified to serve within the area applied for.

3. That the applicant proposes to provide water service to the area applied for and to any occupant therein who might apply for its service and proposes to construct wells, water lines, pumps, storage tanks and other facilities necessary and required to provide necessary service to the public within the area applied for.

4. That according to applicant's balance sheet of December 31, 1966, it had net utility plant in service valued at $856,905, and total assets of $883,020, and liabilities of $82,178, for the year and as of December 31, 1966, applicant had a net income from its operations, after taxes of $21,173.

5. That applicant's water system within the area applied for has been approved by the North Carolina State Board of Health and its water has been tested by said State Board of Health and found to be bacteriologically safe. Applicant is providing safe and reliable water service within its present system.

6. That the area applied for is a rapidly developing section of the State and property therein is in great demand for residential housing and the public convenience and necessity requires that such area be provided with a safe and reliable water supply.

7. That the majority of the property owners within the area applied for desire the service proposed to be offered by the applicant and no protest has been made by any property owner within the area to the application.

8. That the applicant stands ready, willing, and is financially and otherwise able to provide the services proposed in the application.

9. That the applicant seeks approval of rates as follows:

WATER RATE SCHEDULE

Residential Schedule

RATE

Metered:

First 3,000 gal. per mo.	$2.00
Next 5,000 gal. per month per 1,000 gal.	.50
Over 8,000 gal. per mo. per 1,000 gal.	.45

CONNECTION CHARGES

Contribution-in-aid of construction per service connection $250.00

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.

10. During the course of the hearing negotiations were held between attorneys for the applicant and attorneys for

the protestants. As a result of which, applicant, in open court, offered to amend the application so as to delete certain areas protested by the protestants. Such amendments were allowed and following the offering and allowance of such amendment, the protestants withdrew their protests and were voluntarily dismissed. Exhibits "A" and "B" are a description of the area applied for by the Applicant following all amendments to the application. There are attached hereto for information two maps*, marked as Exhibits "A-1" and "B-1" which purports to depict the area applied for and herein certificated as Areas A and B.

*For Exhibits "A-1" and "B-1," see official Order in the Chief Clerk's office.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

This application is unique in its nature in that it seeks assignment to the applicant of a vast area of undeveloped land which is presently without water service, rather than making application for extension of service on a piece-meal basis as a small area develops. The Commission must determine in this matter whether the public convenience and necessity requires that so large an area be assigned to a particular supplier at one time.

The record discloses without question that the area involved, is situated near the City of Fayetteville in Cumberland County in a section that is rapidly developing and which is in great demand for residential housing.

It is the feeling of the Commission that the public convenience and necessity will be better served by assigning this area in large tracts rather than on a piece-meal basis as each subdivision therein may be developed. By doing so the certificated supplier will be afforded the opportunity of making long-range plans to provide service to the area and making necessary financial and other arrangements in order to extend its services in the future as demanded. It has been the Commission's experience that one large financially sound and well-staffed water company can provide more reliable service than can a small uneconomically operated company who serves a limited area. The granting of this application will relieve the applicant or other suppliers of the necessity of making applications to the Commission for certificates of public convenience and necessity on a piece-meal basis and will give developers within the area a source of water supply which they can rely upon without having to delay their plans to see if the Commission will approve an application by a small supplier to their particular development. The applicant has borne the burden of proof that it stands ready, willing and able financially and otherwise, to supply service to anyone within the area who might apply for such service and the

applicant is reminded that it will be obligated to provide service to anyone who applies therefor.

In short, the Commission is of the opinion that public convenience and necessity requires the Amendment of the Certificate as shown in the amended application and the schedule of rates herein proposed should be filed pursuant to G.S. 62-134.

IT IS, THEREFORE, ORDERED That the applicant, LaFayette Water Corporation be and it is hereby issued an amendment to its Certificate for the construction, ownership and operation of a water system in that certain area of Cumberland County, North Carolina more particularly described in Exhibits "A" and "B" hereto attached and made a part hereof.

IT IS FURTHER ORDERED That the rates herein proposed be and they are hereby authorized to be filed pursuant to one day's notice as required by G.S. 62-134 and that the books and records of the applicant be kept in accordance with the Uniform System of Accounts established by this Commission for water utilities, and that the applicant be and is hereby required to operate this system in accordance with the rules and regulations of the North Carolina Utilities Commission for water utilities.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of July, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Deputy Clerk

(SEAL)

EXHIBIT "A" (Cottonade Area)
DOCKET NO. W-43, SUB 5

WATER FRANCHISE DESCRIPTION

BEGINNING at a point where the southern line of Fort Bragg Military Reservation crosses the centerline of N.C. Hwy. 87, and runs westwardly to a point where Persimmon Creek intersects the southern boundary line of Fort Bragg Reservation and proceeding thence with the run of Persimmon Creek to its point of intersection with Fillyaw (now Broadwell) road thence with Fillyaw Road in a westerly direction to its intersection with Danridge Drive; thence south down Dandridge Drive to its point of intersection with Roundtree Drive; thence in a southeasterly direction down Roundtree Drive to its point of intersection with the dividing line between Hubbard Heirs and Fillyaw, Now Broadwell, eastwardly about 2000' to the run of Persimmon Creek, thence with it southwardly about 4000' to the northern line of a tract formerly Bowles, now J. P. Riddle, and runs thence eastwardly with it and the north line of the Viola Harris McDonald tract, now J. P. Riddle, and the

northern line of the tract of which the Ponderosa Subdivision is a part, about 6500' to the run of Beaver Creek; thence down the run of Beaver Creek southwardly approximately 3600' to a branch off Beaver Creek; thence with the run of said branch in an easterly direction to the northwest corner of Fairlane Trailer Park (said branch at its easternmost extreme runs north and south and is the western boundary of the aforesaid trailer park); thence with the northern line of the aforesaid trailer park eastwardly approximately 1500' to the centerline of N.C. Hwy. 87; thence with the centerline of N. C. Hwy. 87 northwardly to the beginning.

EXHIBIT "B" (LaFayette Village Area)
DOCKET NO. W-43, SUB 5

WATER FRANCHISE DESCRIPTION

BEGINNING at the point of intersection of the center line of State Road 1106 with the center line of State Rd. 1141, and runs thence eastwardly with Southern Line of Arran Lakes, Section 6 (Shenandoah) approximately 3800' to Beaver Creek; thence northwardly along Beaver Creek approximately 8200' to U. S. Hwy. 401 at its intersection with N. C. Hwy. 59; thence along the center line of N. C. Hwy. 59 northwardly to the Cumberland County Board of Education "Anne Chestnutt High School" tract; thence along the southern line of the school tract to E. H. Evan's (Now Montclair) line; thence with the various courses and distances of Evan's line eastwardly to the western line of Montclair, Section Two recorded in book 24, page 5, Cumberland County Registry; thence along the western line of Montclair, Section Two to the northern line of Montclair, Section Two; thence along the northern line of Montclair, Section Two and Three to the Aberdeen and Rockfish Railroad; thence along the Aberdeen and Rockfish Railroad in a southeasterly direction approximately 1000' to Buckhead Creek; thence down Buckhead Creek crossing U. S. Hwy. 401 to a point which is 310' at right angles south of U. S. Hwy. 401; thence in an eastwardly direction 310' south of and parallel to U. S. Hwy. 401 approximately 2900' to the present city limits line; thence southwardly along the various courses and distances of the city limits line to the southeast corner of Welmar Heights, Section Three, Plat Bk. 23, Page 58; thence with the southern line of it in a westerly direction to the eastern line of Welmar Heights, Section Two, Plat Bk. 19, page 40; thence along the eastern line of Welmar Heights, Section Two in a southerly direction to the present city limits line; thence in a westerly direction to the eastern right of way margin of Ireland Drive; thence along the eastern right of way margin of Ireland Drive in a southerly direction to the northern right of way margin of Wyatt St; thence in an easterly direction along the northern right of way margin of Wyatt St., approximately 150' to the present city limits line; thence along the various courses and distances of the city limits line in a southerly direction to a point which is located at

right angles 150 feet south of Madison Avenue and 150 feet east of Ireland Drive; thence in a southerly direction 150 feet east of and parallel to Ireland Drive approximately 2500 feet to the center line of Cumberland Mills Road; thence with the centerline of Cumberland Mills Road, westwardly approximately 1500 feet; thence southwardly and perpendicular from the road 150 feet; thence westwardly and parallel with Cumberland Mills Road and 150 feet south of same, about 2000 feet to the run of Buckhead Creek; thence down the run of Buckhead Creek in a southerly direction to its intersection with Juniper Creek; thence up the run of Juniper Creek eastwardly approximately 800 feet to the northwest corner of the Curtis Martin tract (Curtis E. Martin, Docket W-252); thence along the western lines of the Curtis E. Martin Tract crossing Crystal Springs Rd. #1137 to the southern line of the John M. Wilson tract; thence westwardly along the southern line of the John M. Wilson tract and continuing westwardly to the eastern line of the Iris Garden Subdivision, Plat Bk. 35, p. 33 (Iris Gardens Tract, Docket No. W-252); thence northwardly to the northeast corner of the Iris Garden Subdivision; thence westwardly along the northern line of the Iris Gardens Subdivision to the eastern margin of John Smith Road; thence in a southerly direction along the eastern margin of John Smith Road and an extension thereof to a point 150 feet south of George Owen Road; thence westwardly 150 feet south of George Owen Road to a point that is 150 feet east of N. C. Highway 59: thence southwardly along a line that is 150 feet east of N. C. Hwy. 59 approximately 4,000 feet to a point in the southern line of the original description and that is located 150 feet east of N. C. Highway 59; thence South 65° 30' West, approximately 5,000 feet to the center line of State Road 1112; thence with the centerline of State Road No. 1112 westwardly approximately 11,100' to the intersection of the center line of State Road No. 1100; thence with the center line of State Road No. 1100 in a northwesterly direction approximately 5400' to the intersection of the center line of State Road No. 1109; thence North 48° 00' East, approximately 17,900' to the beginning.

SAVING AND EXCEPTING FROM THE FOREGOING DESCRIPTION THE FOLLOWING:

1. All of the tract of land lying east of LaFayette Village and west of Buckhead Creek to be known as "Oakdale Subdivision";

2. All of Sherwood Park as shown on maps which will appear on record;

3. All of Estherbrook as shown on a map which will appear on record;

4. All of the Rowland Spears property lying east of Hope Mills Road; south of LaFayette Village and north of Ashton Forest;

5. Boggs described in Certification granted by N. C. Utilities Commission, Docket No. W-196, Sub 4.

DOCKET NO. W-257

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of P & H Water Company, Inc., 962 Rosehill Road, Fayetteville, North Carolina, for a certificate of public convenience and necessity to provide water service in Warrenwood Estates Subdivision, Cumberland County, North Carolina, and for approval of rates	ORDER GRANTING CERTIFICATE

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on May 7, 1969, at 10 a.m.

BEFORE: Commissioner M. Alexander Biggs, Jr.

APPEARANCES:

For the Applicant:

J. Floyd Ammons
Attorney at Law
100 Hay Street
Fayetteville, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney

No Protestants

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission by P & H Water Company, Inc., on March 7, 1969, wherein the applicant seeks authority to construct, own, operate and maintain a public water system in the Warrenwood Estates Subdivision near the Town of Fayetteville, Cumberland County, North Carolina. Order was entered by the Commission on April 14, 1969, setting the application for hearing on Wednesday, May 7, 1969, at 10 a.m., and directing that a notice of hearing be published as therein prescribed.

The matter came on for hearing at the time and place specified in the order, at which the applicant appeared and presented testimony and certain documentary exhibits. Based upon the evidence adduced at the hearing, the Commission finds that the applicant is a North Carolina corporation with offices in Fayetteville, North Carolina; that it has been requested by T. C. Pritchett, owner and developer of

Warrenwood Estates Subdivision in Cumberland County, to provide a public water system for the residents in said subdivision; that the applicant has caused certain detailed engineering plans to be prepared with respect to the construction of said water system, which plans have been submitted to and approved by the North Carolina State Board of Health; that there is no public water system in said subdivision or within the reasonable reach of same and there is a need in said subdivision for such water system; and that the applicant has adequate financial resources for providing said utility service.

It is concluded that the applicant is fit, willing and able to provide the water service specified in the application and that the public convenience and necessity requires that it be granted authority to construct, own, operate and maintain such public water system for said Warrenwood Estates Subdivision.

IT IS, THEREFORE, ORDERED that the applicant be and it is hereby granted a certificate of public convenience and necessity to construct, own, operate and maintain a public water system in the Warrenwood Estates Subdivision, located near Fayetteville, Cumberland County, North Carolina, fully identified on maps received into evidence in this case and made a part hereof by reference, with this order itself to constitute said certificate.

IT IS FURTHER ORDERED that the applicant shall keep and maintain records in accordance with the Uniform System of Accounts and with the pertinent rules and regulations of the Commission and shall file such reports and information as may be required under said rules, and IT IS FURTHER ORDERED that the applicant is authorized to publish on one day's notice the schedule of rates specified in Exhibit C of the evidence.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of June, 1969.

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

DOCKET NO. W-225, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Quality Water Supplies, Inc., P.O. Box 424, Wrightsville Beach, North Carolina, for an Amendment to its Certificate of Public Convenience and Necessity to provide water service in the Green Meadows Subdivision, Section 4, New Hanover County, North Carolina, and for approval of rates) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, May 20, 1969, at 10:00 a.m.

BEFORE: Commissioners John W. McDevitt (Presiding), M. Alexander Biggs, Jr., and Marvin R. Wooten

APPEARANCES:

For the Applicant:

J. H. Ferguson
Attorney at Law
212 Princess Street
Wilmington, North Carolina

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney
Raleigh, North Carolina

No Protestants

McDEVITT, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on March 28, 1969, by Quality Water Supplies, Inc. of Wrightsville Beach, North Carolina, wherein the applicant seeks an amendment to its Certificate of Public Convenience and Necessity to provide water service in the Green Meadows Subdivision, Section 4, New Hanover County, North Carolina, as shown on map attached to the application and identified as Exhibit A. Among the other exhibits attached to said application is a tariff of proposed rates identified as Exhibit C. Notice of hearing setting forth the time and place for the consideration of the application and stating the proposed water rate schedule specified in Exhibit C was duly published in the Star News, Wilmington, North Carolina, and this hearing was held at the time and place specified in the notice.

At the hearing, evidence was heard from Mr. G. W. Doho, President of the Corporation making the application, and certain exhibits were introduced by the applicant.

Based upon the evidence received at the hearing, the verified statements contained in the application, and attachments thereto which are uncontroverted, the Commission makes the following

FINDINGS OF FACT

(1) The applicant is a duly organized and existing corporation under the laws of the State of North Carolina and is authorized under its Articles of Incorporation to engage in the public utility business of furnishing water service. The Corporation's principal office is 216 Beech Street, Wrightsville Beach, North Carolina.

(2) That the applicant is seeking an amendment to the Certificate of Public Convenience and Necessity presently held by the applicant in order to provide water service to Green Meadows Subdivision, Section 4, located approximately three (3) miles east of Wilmington in New Hanover County.

(3) That the applicant proposes to construct wells, waterlines, pumps, storage tanks and other facilities necessary and required to provide adequate service to customers in Green Meadows Subdivision, Section 4, and proposes to provide service to some 75 lots and two schools within the Subdivision.

(4) That the applicant has submitted detailed plans for its water system to the North Carolina State Board of Health, which plans and specifications have been approved by said Board.

(5) That the applicant has submitted samples of water taken from the wells proposed to be used in connection with this said water system, which water has been found to conform with the standards of the United States Public Health Drinking Water Standards.

(6) That R. C. Fowler and wife, Myrtle C. Fowler, and C. L. Reavis and wife, Margaret S. Reavis, are owners and developers of the Green Meadows Subdivision and they have deeded to Quality Water Supplies, Inc. all of that tract designated as the "well lot", as recorded in map book 10 at page 26, New Hanover Registry, together with right-of-way for ingress and egress.

(7) That the applicant is in all respects fit, able and willing to provide water service in the area described in the application and that there is presently no water supply that can reasonably supply the area sought to be certificated with water service. There is a definite public need for water service in said area.

(8) That the applicant is presently serving other subdivisions in New Hanover County.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

The Commission concludes that there is a demand and need for water service in the Green Meadows Subdivision, Section 4, which demand and need cannot be met by any other water supplier, and that the applicant stands ready, willing and financially able to provide water service to said subdivision. The Commission is of the opinion that public convenience and necessity requires an amendment to the applicant's Certificate of Public Convenience and Necessity in order that applicant might serve Green Meadows Subdivision, Section 4.

IT IS, THEREFORE, ORDERED that Quality Water Supplies, Inc., Wrightsville Beach, North Carolina, be and is hereby issued an amendment to its Certificate of Public Convenience and Necessity for the construction, ownership and operation of the water system in Green Meadows Subdivision, Section 4, New Hanover County, which area is more particularly described in the applicant's Exhibit A and made a part thereof.

IT IS FURTHER ORDERED that the books and records of the applicant be kept in accordance with the Uniform System of Accounts established by this Commission for water utilities, and that it should otherwise comply in all respects with the rules and regulations of the Commission.

IT IS FURTHER ORDERED that the schedule of rates as shown in the tariff attached to the application and marked Exhibit C is hereby deemed to be filed as a tariff schedule under G.S. 62-138, which schedule of rates is hereby authorized to become effective on one (1) day's notice.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of June, 1969.

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

DOCKET NO. W-254, SUB 1

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Regional Utility Company, Greensboro, North Carolina, for an amendment to its certificate of public convenience and necessity in order that it might provide water and sewer service in the Mount Carmel Acres Subdivision, Asheville, North Carolina, and for approval of rates) ORDER AMENDING CERTIFICATE

HEARD IN: The Hearing Room of the Commission, Old State Library Building, Raleigh, North Carolina, on February 7, 1969 at 10 a.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (Presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

John J. Dortch
Smith, Moore, Smith, Schell and Hunter
Attorneys at Law

P. O. Drawer G, Greensboro, North Carolina
Greensboro, North Carolina

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney
Raleigh, North Carolina

No Protestants

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission on November 29, 1968, by Regional Utility Company, 1020 East Wendover Avenue, Greensboro, North Carolina, wherein the applicant seeks an amendment to its certificate of public convenience and necessity in order to own, operate, construct, maintain wells, pumps, water lines and to construct, operate and maintain sewerage collecting and treatment facilities, to distribute and sell water and sewer service to customers in the area known as Mount Carmel Acres Subdivision, approximately three miles from the City of Asheville, adjacent to County Road 1367, which location and facilities are more specifically described in applicant's Exhibits A, B, and C herein, to which reference is made for complete description of water and sewer facilities to be installed within the subdivision. The applicant further seeks approval of rates for said service.

The application came on for hearing at the time and place above mentioned pursuant to Notice of Hearing issued by the Commission on December 31, 1968. At said hearing evidence was adduced consisting of oral testimony and certain documentary evidence.

FINDINGS OF FACT

Based upon the evidence thus adduced, the Commission finds the following facts:

1. That the applicant is a duly organized and existing corporation under the laws of the State of North Carolina with its principal office located at 1020 East Wendover Avenue, Greensboro, North Carolina.

2. That the applicant has been issued a certificate of public convenience and necessity by this Commission, and pursuant to that authorization is now providing water and sewer service in the Bent Creek Subdivision, Buncombe County, North Carolina.

3. That the developers of Mount Carmel Acres Subdivision, Buncombe County, North Carolina, have requested applicant to provide water and sewer service in said subdivision and will have deeded to the applicant the title to the land upon which the wells and sewer treatment facilities are located and easements for the placement of

water distribution and sewer collecting lines in said subdivision.

4. That the applicant is now proceeding to construct wells, pumps, storage tanks, distribution lines, collecting lines and sewer treatment plant in order to distribute and sell water and sewer service to customers in said subdivision.

5. That the applicant proposes to provide water and sewer service to some 380 customers with water service on a metered basis and will provide these 380 customers with sewer service on a flat rate base.

6. That the applicant has had the detailed plans of its proposed water system and proposed sewer system approved by the North Carolina State Board of Health under Serial No. 6757 and by the North Carolina Department of Water and Air Resources under Permit No. 1523.

7. That the applicant has had the water from wells Nos. 1, 2 and 3 analyzed and from said analysis the water from well No. 2 does not meet the U.S. Public Health Drinking Water Standards - 1962, and indicates that treatment may be required in order to obtain compliance with said standards.

8. That the applicant maintains an office at 770 Patton Avenue, Asheville, North Carolina, for the purpose of collecting bills, handling service requests and for maintenance and upkeep of its water and sewer systems in Buncombe County, North Carolina.

9. That the Mount Carmel Acres Subdivision is located outside the corporate limits of any municipality and beyond the reach of any existing water system or any existing sewer system, and the water supply and sewer service which applicant proposes to furnish to the residents of said subdivision is the only available economical water supply.

10. That the applicant proposes to charge the following rates for service in this subdivision:

WATER RATE SCHEDULE

Residential Service

RATE

0 to 300 Cu. Ft.	$0.85 per 100 Cu. Ft. ($2.54 minimum)
Next 3,700 Cu. Ft.	$0.76 per 100 Cu. Ft.
Remainder	$0.56 per 100 Cu. Ft.

Sewer Service: $5.00 per month per customer

CONNECTION CHARGES: $10.00 Deposit

11. That the applicant estimates that the installed cost of the water system and the sewer system herein proposed is $143,450 and $186,400, respectively.

12. That the applicant is in all respects fit, willing and able to provide water and sewer service in the area described above.

CONCLUSIONS

Based upon the foregoing Findings of Fact, the Commission concludes that there is a demand and need for water and sewer service in the area shown on the map above referred to, which need and demand cannot be filled or met economically by any other supplier, and that the public convenience and necessity will be served by the granting of an amendment to the certificate of public convenience and necessity to the applicant as proposed herein.

IT IS, THEREFORE, ORDERED that the certificate of public convenience and necessity heretofore issued to Regional Utility Company for the provision of water and sewer service in Buncombe County be and is hereby amended to authorize Regional Utility Company to provide water and sewer service in the Mount Carmel Acres Subdivision, Buncombe County, North Carolina, which area is shown on applicant's Exhibits A, B and C, made a part hereof by reference.

IT IS FURTHER ORDERED that the applicant shall not connect any well to the water distribution system from which the water does not meet the U.S. Public Health Drinking Water Standards - 1962, and prior to the connection of said wells shall submit evidence of the water analysis to the Commission that this requirement has been met.

IT IS FURTHER ORDERED that the applicant shall maintain its books and records in accordance with the Uniform System of Accounts adopted by this Commission, and that it shall otherwise comply in all respects with the rules and regulations of the Commission.

IT IS FURTHER ORDERED that the applicant shall abide by the rules and regulations of the North Carolina Utilities Commission pertaining to water and sewer companies.

IT IS FURTHER ORDERED that the applicant be and is hereby authorized to file the rate proposed herein for service, which schedule of rates is hereby authorized to become effective on one day's notice.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of April, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. W-253

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of. Application of James D. Rhyne, 1701 Auten Road, Gastonia, North Carolina, for a certificate of public convenience and necessity to provide water service in the Monterray Park, Idlewild Park and Dalewood Subdivisions, Gaston County, North Carolina, and for approval of rates	) ORDER) GRANTING) CERTIFICATE

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on May 7, 1969, at 2 p.m.

BEFORE: Commissioner M. Alexander Biggs, Jr.

APPEARANCES:

For the Applicant:

L. B. Hollowell, Jr.
Hollowell, Stott and Hollowell
Attorneys at Law
283 West Main Street
Gastonia, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney

No Protestants

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission by James D. Rhyne on July 1, 1968, wherein the applicant seeks authority to construct, own, operate and maintain public water systems in the Monterray Park, Idlewild Park and Dalewood Subdivisions near the Town of Gastonia, Gaston County, North Carolina. Order was entered by the Commission on April 14, 1969, setting the application for hearing on Wednesday, May 7, 1969, at 2 o'clock p.m., and directing that a notice of hearing be published as therein prescribed.

The matter came on for hearing at the time and place specified in the order, at which the applicant appeared and presented testimony and certain documentary exhibits.

Based upon the evidence adduced at the hearing, the Commission finds that the applicant is an individual proprietor doing business as Rhyne Realty & Construction Co., with offices in Gastonia, North Carolina; that he is the developer of Monterray Park, Idlewild Park and Dalewood Subdivisions in Gaston County, North Carolina, and desires

to construct, own and maintain in said subdivisions a public water system from which water will be furnished and sold to the occupants of said subdivisions; that the applicant has caused certain detailed engineering plans to be prepared with respect to the construction of said water systems, which plans have been submitted to and approved by the North Carolina State Board of Health, with the proviso that "No more connections be added to the system until larger distribution lines are installed"; that there is no public water system in either of said subdivisions or within the reasonable reach of same and there is a need in said subdivisions for such water systems; and that the applicant has adequate financial resources for providing said utility service.

It is concluded that the applicant is fit, willing and able to provide the water service specified in the application and that the public convenience and necessity requires that he be granted authority to construct, own, operate and maintain such public water systems for said Monterray Park, Idlewild Park and Dalewood Subdivisions, subject to the aforementioned proviso of the North Carolina State Board of Health.

IT IS, THEREFORE, ORDERED that the applicant be and he is hereby granted a certificate of public convenience and necessity to construct, own, operate and maintain public water systems in the Monterray Park, Idlewild Park and Dalewood Subdivisions, located near Gastonia, Gaston County, North Carolina, fully identified on maps received into evidence in this case and made a part hereof by reference, with this order itself to constitute said certificate, subject to the condition that he connect no more customers to said systems until larger distribution lines are installed.

IT IS FURTHER ORDERED that the applicant shall keep and maintain records in accordance with the Uniform System of Accounts and with the pertinent rules and regulations of the Commission and shall file such reports and information as may be required under said rules, and IT IS FURTHER ORDERED that the applicant is authorized to publish on one day's notice the schedule of rates specified in Exhibit C of the evidence.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of June, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

DOCKET NO. S-4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Sardis Utilities Company, 100 Squirrel Hill Road, Charlotte, North Carolina, for a certificate of public convenience and necessity to operate and maintain a sewerage treatment plant and collection system in the Heritage Woods Subdivision, Phase I and Phase II, Mecklenberg County, North Carolina, and for approval of rates	) RECOMMENDED ORDER GRANTING CERTIFICATE

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on February 28, 1969, at 2 p.m.

BEFORE: Commissioner M. Alexander Biggs, Jr.

APPEARANCES:

For the Applicant:

Joseph M. Griffin
Griffin & Gerdes
Attorneys at Law
823 Law Building
Charlotte, North Carolina

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney

No Protestants

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission by Sardis Utilities Company on January 21, 1969, wherein the applicant seeks authority to operate and maintain a sewerage collection and treatment system in the Heritage Woods Subdivision, Phase I and Phase II, located on Sardis Road, Mecklenberg County, North Carolina. Order was entered by the Commission on January 29, 1969, setting the application for hearing on Friday, February 28, 1969, at 2 o'clock p.m., and directing that a notice of hearing be published as therein prescribed.

The matter came on for hearing at the time and place specified in the order, at which the applicant appeared and presented evidence consisting of the testimony of witnesses and certain documentary exhibits.

Based upon the evidence adduced at the hearing, the Commission finds that the applicant is a duly organized and existing corporation; that it has been requested by Hobart Smith Construction Company, developer of the Heritage Woods Subdivision in Mecklenburg County, to provide a sewerage

collection and treatment system for the residents in said subdivision; that the applicant has caused certain detailed engineering plans to be prepared with respect to the construction of said sewerage system, which plans have been submitted to and approved by the North Carolina Board of Water and Air Resources; that there is no public sewerage system in said subdivision or within the reasonable reach of same; and that there is a need in said subdivision for such sewerage system.

It is concluded that the applicant is fit, willing and able to provide the sewerage service specified in the application and that the public convenience and necessity requires that it be granted authority to own, operate and maintain such sewerage collection and treatment system for said Heritage Woods Subdivision.

IT IS, THEREFORE, ORDERED that the applicant be and it is hereby granted a certificate of public convenience and necessity to own, operate and maintain a sewerage collection and treatment system in the Heritage Woods Subdivision, Phase I and Phase II, located on Sardis Road, Mecklenburg County, North Carolina, fully identified on maps received into evidence in this case and made a part hereof by reference, with this order itself to constitute said certificate.

IT IS FURTHER ORDERED that the applicant shall keep and maintain records in accordance with the Uniform System of Accounts and of the pertinent rules and regulations of the Commission and shall file such reports and information as may be required under said rules, and IT IS FURTHER ORDERED that the applicant is authorized to publish on one day's notice the schedule of rates specified in Exhibit 9 of the evidence.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of March, 1969.

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

DOCKET NO. W-256

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Albert Emil Long, d/b/a Urban Water Co., P.O. Box 742, Newton, North Carolina, for a certificate of public convenience and necessity to provide water service in the Eastwood Acres Subdivision, Catawba County, North Carolina, and for approval of rates) ORDER GRANTING CERTIFICATE

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on March 19, 1969, at 2 p.m.

BEFORE: Commissioners M. Alexander Biggs, Jr. (Presiding), John W. McDevitt and Clawson L. Williams, Jr.

APPEARANCES:

For the Applicant:

Albert Emil Long
P. O. Box 742, Newton, North Carolina
For: Himself

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney

No Protestants

BIGGS, COMMISSIONER: Application was filed with the North Carolina Utilities Commission by Albert Emil Long, d/b/a Urban Water Co., on December 27, 1968, wherein the applicant seeks authority to own, operate and maintain a public water system in the Eastwood Acres Subdivision near the Town of Hickory, Catawba County, North Carolina. Order was entered by the Commission on February 6, 1969, setting the application for hearing on Wednesday, March 19, 1969, at 2 o'clock p.m., and directing that a notice of hearing be published as therein prescribed.

The matter came on for hearing at the time and place specified in the order, at which the applicant appeared and presented testimony and certain documentary exhibits.

Based upon the evidence adduced at the hearing, the Commission finds that the applicant is an individual doing business as Urban Water Co., with offices in Newton, North Carolina; that he has been requested by Colonial Realty Company, Inc., owner and developer of the Eastwood Acres Subdivision in Catawba County, to provide a public water system for the residents in said subdivision; that the applicant has caused certain detailed engineering plans to be prepared with respect to the construction of said water system, which plans have been submitted to and approved by the North Carolina State Board of Health; that there is no public water system in said subdivision or within the reasonable reach of same and there is a need in said subdivision for such water system; and that the applicant has adequate financial resources for providing said utility service.

It is concluded that the applicant is fit, willing and able to provide the water service specified in the

application and that the public convenience and necessity requires that it be granted authority to own, operate and maintain such public water system for said Eastwood Acres Subdivision.

IT IS, THEREFORE, ORDERED that the applicant be and he is hereby granted a certificate of public convenience and necessity to own, operate and maintain a public water system in the Eastwood Acres Subdivision, located near Hickory, Catawba County, North Carolina, fully identified on maps received into evidence in this case and made a part hereof by reference, with this order itself to constitute said certificate.

IT IS FURTHER ORDERED that the applicant shall keep and maintain records in accordance with the Uniform System of Accounts and with the pertinent rules and regulations of the Commission and shall file such reports and information as may be required under said rules, and IT IS FURTHER ORDERED that the applicant is authorized to publish on one day's notice the schedule of rates specified in Exhibit C of the evidence.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of April, 1969.

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

DOCKET NO. W-158, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Filing of the Increased Water and Sewer Rates by General Investment Corporation, Oak Park Subdivision, 522 Holly Ridge Drive, Raleigh, North Carolina) ORDER SETTING RATES AND CHARGES

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on September 5, 1969, at 10:00 A.M.

BEFORE: Commissioners John W. McDevitt, Clawson L. Williams, Jr., and Marvin R. Wooten, Presiding

APPEARANCES:

For the Respondent:

John R. Jordan, Jr.
Jordan, Morris & Hoke
Attorneys at Law
First Citizens Bank Building
Raleigh, North Carolina

Clarence H. Noah
Attorney at Law
1425 Park Drive
Raleigh, North Carolina 27605

For the Commission Staff:

Larry G. Ford
Associate Commission Attorney
N. C. Utilities Commission
Ruffin Building
Raleigh, North Carolina

WOOTEN, COMMISSIONER: On June 24, 1969, General Investment Corporation (hereinafter referred to as Applicant), Oak Park Subdivision, 522 Holly Ridge Drive, Raleigh, North Carolina, under G.S. 62-71, filed a new schedule of increased rates and charges for water and sewer service rendered by it to become effective August 1, 1969. By order dated July 15, 1969, the Commission suspended the said increased rates and charges and deferred their filing for a period of 270 days. It appearing that the rights and interests of the water consumers and sewer users might be affected, an investigation was instituted to determine the lawfulness of the proposed rates. The investigation was assigned for hearing in the Commission's offices on September 5, 1969, at 10:00 A.M.

The Commission required Applicant to notify all of its customers by mail of the proposed rates and charges and give the time and place of the hearing on said investigation. Said notice was given through newspaper advertisement on July 23 and July 30, 1969, which said notice also notified the public and consumers that the filing contained an additional and new charge for fire protection not previously included in the rates on file with this Commission. The fire protection charge sought is 5% of the water rate. The proposed rates and charges are:

WATER AND SEWER RATE SCHEDULE
Residential and Commercial Service

	Consumption	Water	Sewer	Fire Protection	Amount
First	3,200 cu. ft.	$ .70	$ .42	$ .035	$ 36.96
Next	3,300 cu. ft.	.66	.40	.033	73.03
"	6.500 cu. ft.	.60	.38	.03	138.68
"	13,500 cu. ft.	.54	.36	.027	263.83
"	20,000 cu. ft.	.46	.34	.023	428.43
"	20,000 cu. ft.	.42	.32	.021	580.63
"	33,500 cu. ft.	.34	.30	.017	800.73
All Over	100,000 cu. ft.	.32	.28	.016	

MINIMUM CHARGE: $4.00 monthly.

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.

The Commission's Accounting Staff examined Applicant's operation and made an audit of its accounts. The examination and audit were introduced into evidence and were accepted or adopted by Applicant with only slight questions or modifications.

Upon an examination of the books and records it was determined that Applicant maintained joint books for its real estate operation and its utility operation and not in accord with Uniform System of Accounts; accordingly, separations and allocations were made by the Accounting Staff in its audit.

From all the testimony and the exhibit, we make the following

FINDINGS OF FACT

1. Applicant is a North Carolina corporation, organized and existing under and by virtue of the North Carolina Corporation Law.

2. Applicant has installed and operates a water distribution system, together with a sewage collection and disposal system, and holds a Certificate of Public Convenience and Necessity from this Commission to own, operate and maintain such systems for the public.

3. Applicant has drilled numerous wells, of which eleven (11) are producing wells, in order to be able to have an adequate supply of water for its customers.

4. Applicant is presently serving approximately 213 customers.

5. Applicant engages in business other than water and sewer services.

6. The fair value of Applicant's property used and useful in the distribution of water and the collection and disposal of sewage was $292,000.00 as of June 30, 1969.

7. Present charges made by Applicant to its customers are made as a charge for water and sewer and divided equally as water revenues and sewer revenues, without reference to fire protection charges. The proposed rates and charges show an approximate average increase of 37 1/2% in the water rate, which includes a charge of 5% of the basic water rate for fire protection which is and has been supplied by the applicant, and brings said rate in line with that charged by

the City of Raleigh for similar services beyond its city limits, and makes nominal adjustments in the sewer rates.

8. Applicant's gross revenues from its utility operations for the test year ended June 30, 1969, were $25,889.89. Operating expenses, after pro forma adjustments, as reported in Staff Exhibit No. 1 amounted to $29,473.20. The operating loss, adjusted by a growth factor, amounted to $4,059.96.

9. The rates and charges proposed by the applicant, if they had been effective during the same period, would have produced additional gross revenues of $9,523.19 and would have provided Applicant with net operating income of $3,830.32, which includes $449.63 for customer growth factor.

CONCLUSIONS

Taking into consideration the book value of Applicant's property at original cost ($328,292.00), less depreciation reserve ($50,253.84), less contributions ($264,865.00), the Commission's Staff found a net investment in water and sewer utility plant of $13,173.16. After making allowance for working capital ($3,486.31), consisting of 1/6 of operating expenses, excluding depreciation and average Federal income tax accruals, the net investment, plus an allowance for working capital, amounted to $16,659.47. The Staff determined the contributions in aid of construction to aggregate $264,865.00 derived primarily from lot improvement charges. Applicant does not contend that there is error in the Commission Staff determination in these calculations. The Commission Staff figures as presented in Staff Exhibit No. 1 seem to properly state book cost value of Applicant's property as of June 30, 1969.

While it is proper to eliminate contributions in aid of construction from the rate base, the Commission is fixed by statute with the responsibility of determining the fair value of Applicant's property used and useful in rendering service and producing revenue and to provide for rates which will enable it to earn a fair rate of return on such fair value. We are aware of the fact that the cost of construction of facilities necessary to furnish the types of service that the applicant is engaged in rendering has also increased.

Giving full consideration to all the facts and circumstances we have found, we now conclude that the fair value of Applicant's property on which it is entitled to earn a fair rate of return is not less than $292,000.00. The rates and charges which it proposes to make effective for its water and sewage collection and disposal services will enable it to pay all its operating expenses, meet its obligations and have some $3,830.32 in net operating income for return. The rate of return is determined by the application of the rate base to the net operating income for

return. The proposed rates will enable the applicant to earn a return of 1.31 per cent on the determined fair value rate base. The rates set forth in Appendix A hereto attached are those suggested by Applicant. The increase to the average customer will be approximately 37%. The rates must be considered in the light of the fact that they are not exorbitant when compared with similar services throughout the State and more particularly when compared with the rates of the City of Raleigh for similar services beyond the city limits.

Applicant is not burdened with debt obligations, and under its system and purpose of operations does not necessarily need large earnings. We conclude that the rates proposed by Applicant are just and reasonable and that it should be permitted to put into effect on all meter readings and billings after September 25, 1969, the rates and charges and rules and regulations as set forth in Appendix A attached to this order.

The report of the Commission's Staff indicates that Applicant does not maintain separate books and records to properly reflect the utility's operation and that such books and records as are kept are not in accordance with the Uniform System of Accounts as adopted for water utilities by this Commission.

IT IS, THEREFORE, ORDERED, That Applicant be, and it is, hereby authorized to adjust its rates and charges and institute the charge for services as proposed by it and as specifically set forth in Appendix A hereto attached.

IT IS FURTHER ORDERED, That Applicant be, and it is, hereby allowed to make such rates and charges effective on all meter readings and billings after September 25, 1969, by filing them with the Commission prior to that date.

IT IS FURTHER ORDERED, That Applicant shall, as of July 1, 1969, establish separate books and records to properly reflect its utility operation and shall keep such books and records in accordance with the Uniform System of Accounts as adopted by this Commission. The newly established records shall include, among other things, the original cost of plant, depreciation reserve calculated on the same, and contributions in aid of construction.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of September, 1969.

NORTH CAROLINA UTILITIES COMMISSION
Mary Laurens Richardson, Chief Clerk

(SEAL)

APPENDIX A
General Investment Corporation
Oak Park Subdivision
Docket No. W-156, Sub 5

Water and Sewer Rate Schedule
Availability

Available to all residential and commercial consumers within the service area for domestic and/or commercial use.

Rate
(per 100 cu. ft.)

Residential and Commercial Service

	Consumption	Water	Sewer	Fire Protection	Amount
First	3,200 cu. ft.	$ .70	$ .42	$ .035	$ 36.96
Next	3,300 cu. ft.	.66	.40	.033	73.03
"	6.500 cu. ft.	.60	.38	.03	138.68
"	13,500 cu. ft.	.54	.36	.027	263.83
"	20,000 cu. ft.	.46	.34	.023	428.43
"	20,000 cu. ft.	.42	.32	.021	580.63
"	33,500 cu. ft.	.34	.30	.017	800.73
All Over	100,000 cu. ft.	.32	.28	.016	

MINIMUM CHARGE: $4.00 monthly

Reconnection Charge

A charge of $4.00 will be made for N.C.U.C. Rule R7-20(f) reconnection charge. A charge of $2.00 will be made for N.C.U.C. Rule R7-20(g) when water is turned off at customer's request.

BILLS DUE: Ten days after date rendered.

Subject Index to Orders Reported

SUBJECT INDEX
UTILITIES COMMISSION ORDERS FULL REPORT PRINTED
CONDENSED INDEX OUTLINE

I. GENERAL ORDERS (Detailed Outline p. 599)
- A. General
- B. Administrative Orders
- C. Electricity
- D. Gas
- E. Telephone
- F. Water

II. ELECTRICITY (Detailed Outline p. 600)
- A. Certificate of Public Convenience and Necessity
- B. Service Areas
- C. Miscellaneous

III. GAS (Detailed Outline p. 602)
- A. Securities

IV. HOUSING AUTHORITY (Detailed Outline p. 602)
- A. Certificate of Public Convenience and Necessity

V. MOTOR BUSES (Detailed Outline p. 603)
- A. Bus Stations
- B. Certificates Granted
- C. Rates
- D. Transfers
- E. Miscellaneous

VI. MOTOR TRUCKS (Detailed Outline p. 604)
- A. Authority Cancelled
- B. Authority Denied and/or Dismissed
- C. Authority Revoked
- D. Cancellations
- E. Franchise Certificates and Permits
- F. Rates
- G. Sales and Transfers
- H. Miscellaneous

VII. RAILROADS (Detailed Outline p. 609)
- A. Discontinuance of Agency Stations
- B. Rates

VIII. TELEGRAPH (Detailed Outline p. 609)
- A. Rates

IX. TELEPHONE (Detailed Outline p. 609)
- A. Radio Common Carriers
- B. Rates
- C. Miscellaneous

X. WATER AND SEWER (Detailed Outline p. 610)
- A. Franchise Certificates
- B. Rates

SUBJECT INDEX

UTILITIES COMMISSION ORDERS FULL REPORT PRINTED

DETAILED INDEX OUTLINE

PAGE

I. GENERAL ORDERS

A. General

1. M-100, Sub 19 - Revision of Rule R2-35 Interchange by Motor Freight Carriers of Intrastate Traffic - Order Amending Rule R2-35 (5-8-69) 1

2. M-100, Sub 20 - Amendments to Rule R1-16 - Filing of Additional Information with Applications for Pledging Assets, Issuing Securities, and Assuming Obligations - Order Amending Rule R1-16 (9-3-69) 2

3. M-100, Sub 21 - Addition of New Article 13 (Includes Rules R2-79 - R2-85) - Rules for Registration of Exempt Interstate Motor Carriers, Pursuant to G.S. 62-266 and Chapter 721 of the Session Laws of 1969 Order Adding New Article 13 (9-15-69) 4

4. M-100, Sub 22 - Amendments to Rules R1-26 and R8-29 - Correction of Technical and Procedural Provisions in Various Administrative Rules Order Adopting Rule Changes (9-15-69) 21

5. M-100, Sub 23 - Amendments to Rules R1-5(g), R1-7(c), R1-9(g), R1-15(3), R1-16(a), R1-19(c), R1-24(f)(3), R1-25(c), and Addition of Rule R1-32 - Increasing Required Number of Copies of Filings - Order Adopting Rule Change (8-18-69) 21

6. M-100, Sub 24 - Revision of Rule R2-46 of Motor Carrier Regulations - Safety Rules and Regulations - Order Amending Rule R2-46 (9-9-69) 23

7. M-100, Sub 25 - Amendments to Rule R2-48 - Revise the Classification of Motor Carriers of Property to Conform with Uniform System of Accounts Order Amending Rule R2-48 (9-15-69) 24

B. Administrative Orders

1. 4066-W - Clarification of Term "fertilizer and fertilizer materials" (4-17-69) 25

2. 4066-W - Protest of Bracey's Transfer, Inc., Rowland, North Carolina, et al, to Administrative Ruling Clarifying the Term "fertilizer and

fertilizer materials" in General Order No. 4066-W dated 4-17-69 (8-4-69)

3. 4066-X - Clarification of Commodity Now Described in Certain Certificates as "cotton waste" General Order Amending the Description "cotton waste" (6-10-69) 32

C. Electricity

1. E-100, Sub 2 - Petition of Carolina Power & Light Company for Modification of Order Pertaining to Accounting Procedure - Supplemental Order Modifying Order of January 14, 1963 (7-15-69) 33

2. E-100, Sub 2 - Petition of Duke Power Company for Modification of Order Pertaining to Accounting Procedure - Supplemental Order Modifying Order of January 14, 1963 (7-15-69) 36

D. Gas

1. G-100, Sub 5 - Petition of North Carolina Natural Gas Corporation for Modification of Order Pertaining to Accounting Procedure Supplemental Order Modifying Order of January 14, 1963 (9-26-69) 39

2. G-100, Sub 5 - Petition of Public Service Company of North Carolina, Inc., for Modification of Order Pertaining to Accounting Procedure Supplemental Order Modifying Order of January 14, 1963 (9-30-69) 41

E. Telephone

1. P-100, Sub 22 - Investigation of Nonrecurring Charges for Installations, Changes, Moves, and Reconnects by Telephone Companies Operating within North Carolina - Order Authorizing Increase in Charges (9-19-69) 43

F. Water

1. W-100, Sub 2 - Amendments to Rules R7-2, R7-3, R7-7, R7-8, R7-12, and R7-20 - Order Adopting Amendments to Rules for Water Companies (8-21-69) 49

II. ELECTRICITY

A. Certificate of Public Convenience and Necessity

1. E-2, Sub 175 - Carolina Power & Light Company Order Granting Certificate Authorizing Construction of Additional Generating Facilities at its Asheville Steam Electric Plant in Buncombe County, N.C. (5-2-69) 54

2. E-2, Sub 177 - Carolina Power & Light Company Order Granting Certificate Authorizing Construction of Additional Generating Facilities at its W. H. Weatherspoon Steam Generating Plant in Robeson County, N.C. (9-11-69) 56

3. E-2, Sub 178 - Carolina Power & Light Company Order Granting Certificate Authorizing Construction of Additional Generating Facilities at its Roxboro Steam Generating Plant in Person County, N.C. (9-18-69) 59

4. E-2, Sub 179 - Carolina Power & Light Company Order Granting Certificate Authorizing Construction of Additional Generating Facilities at its L. V. Sutton Steam Generating Plant in New Hanover County, N.C. (9-23-69) 62

5. E-7, Sub 110 - Duke Power Company - Order Granting Certificate Authorizing Construction of New Generating Capacity on Belews Creek in Stokes County, N.C. (7-15-69) 65

6. E-7, Sub 113 - Duke Power Company - Order Granting Certificate Authorizing Construction of Additional Generating Capacity at Cliffdale Steam Station, Rutherford County, N.C. (8-26-69) 67

7. E-22, Sub 112 - Virginia Electric and Power Company - Order Granting Certificate Authorizing Construction of Two 25.4 Megawatt Oil Fired Combustion Turbine Driven Electric Generators at Kitty Hawk, N.C. (11-10-69) 69

B. Service Areas

1. ES-36 - Electric Suppliers - Carolina Power & Light Company, Pee Dee EMC, and Randolph EMC Order Assigning Service Areas in Moore County (7-24-69) 71

2. ES-37 - Electric Suppliers - Blue Ridge EMC and Mountain EMC - Order Assigning Service Areas in Watauga County, N.C. (6-10-69) 77

C. Miscellaneous

1. E-32, Sub 2 - Davenport Power & Light Company Order Approving Lease and Option to Purchase Davenport Power & Light Company by Pitt & Greene EMC and Edgecombe-Martin EMC (5-16-69) 82

2. E-25, Sub 6 - Rocky Mount Mills - Order Authorizing Rocky Mount Mills the Authority to Sell its Electrical Distribution System 89

in and Near Rocky Mount, N.C., to the City of Rocky Mount, N.C. (11-25-69)

III. GAS

A. Securities

1. G-9, Sub 74 - Piedmont Natural Gas Company, Inc. Order Granting Authority to Issue and Sell Notes (5-2-69) 94

2. G-5, Sub 68 - Public Service Company of North Carolina, Incorporated - Order Granting Authority to Issue and Sell Additional Shares of Common Stock (6-26-69) 96

IV. HOUSING AUTHORITY

A. Certificate of Public Convenience and Necessity

1. H-51 - Albemarle, City of - Order Granting Certificate for 200 Units of Low-Rent Housing (12-17-69) 99

2. H-46 - Edenton Housing Authority - Recommended Order Granting Certificate for 309 Units of Low-Rent Housing (4-30-69) 101

3. H-22, Sub 1 - Hendersonville, City of Recommended Order Granting Amendment of Certificate for 100 Low-Rent Housing Units (2-4-69) 104

4. H-22, Sub 1 - Hendersonville, City of - Order Amending Recommended Order of February 4, 1969 (6-9-69) 107

5. H-50 - Lincolnton Housing Authority - Order Granting Certificate for 350 Low-Rent Housing Units (7-24-69) 108

6. H-49 - North Wilkesboro Housing Authority Order Granting Certificate for 100 Units of Low-Rent Housing (7-2-69) 110

7. H-48 - Oxford Housing Authority - Recommended Order Granting Certificate for 200 Units of Low-Rent Housing (6-9-69) 114

8. H-41, Sub 1 - Raleigh, City of - Order Amending and Extending Certificate for 500 Additional Dwelling Units of Low-Rent Public Housing (7-10-69) 116

9. A-22 - Rocky Mount, City of - Order Granting Certificate for Construction of Certain Water Supply Reservoir Facilities (8-6-69) 119

10. H-47 - Statesville Housing Authority Recommended Order Granting Certificate for 250 Units of Low-Rent Housing (7-9-69) 123

11. H-11, Sub 1 - Wilson, City of - Recommended Order Granting Amendment to Certificate for 125 Units of Low-Rent Housing (6-17-69) 126

V. MOTOR BUSES

A. Bus Stations

1. B-275, Sub 37 - Raleigh Union Bus Station Carolina Coach Company (Greyhound Lines, Inc., Southern Greyhound Lines Division, Seashore Transportation Co., and Queen City Coach Co.) Order Approving Lease Agreement for the Operation of Said Station by Carolina Coach Co. (3-24-69) 129

2. B-275, Sub 38 - Wilmington Union Bus Station Seashore Transportation Co. (Carolina Coach Co., Greyhound Lines, Inc., Southern Greyhound Lines Division, Queen City Coach Co., and Southern Coach Co.) - Order Approving Agreement for the Operation of Said Station by Seashore Transportation Co. (5-15-69) 134

3. B-275, Sub 38 - Wilmington Union Bus Station Seashore Transportation Co. (Carolina Coach Co., Greyhound Lines, Inc., Southern Greyhound Lines Division, Queen City Coach Co., and Southern Coach Co.) - Order Approving the Said Operating Agreement Dated July 1, 1953 (6-13-69) 141

4. B-275, Sub 38 - Wilmington Union Bus Station Seashore Transportation Co. (Carolina Coach Co., Greyhound Lines, Inc., Southern Greyhound Lines Division, Queen City Coach Co., and Southern Coach Co.) - Order Approving Operating Agreement Dated August 1, 1969, and the Said Lease Agreement Dated August 1, 1969 (9-25-69) 145

B. Certificates Granted

1. B-15, Sub 158 - Carolina Coach Company - Order Granting Common Carrier Certificate No. B-15 for Additional Operating Authority (11-21-69) 146

2. B-7, Sub 82 - Greyhound Lines, Inc. - Final Order Following Remand from Court of Appeals Granting a Certificate of Convenience and Necessity (10-17-69) 150

3. B-297 - Northcutt, Med C., Norven, North Carolina - Recommended Order Granting Passenger 155

Common Carrier Certificate to Transport School Children (9-3-69)

C. Rates

1. B-105, Sub 25 - Rates-Bus - Smoky Mountain Stages, Inc. - Order Granting Proposed Elimination of Murphy, N.C., as an Equipment Point in Connection with Charter Trips (11-28-69) 158

D. Transfers

1. B-295 - Carolina Transit Lines of Charlotte, Inc., from Sharon Coach Company, Inc. - Order Approving Transfer (5-15-69) 162

2. B-296 - Wilson Bus Company from Cape Fear Valley Coaches, Inc. - Order Approving Transfer (6-12-69) 167

E. Miscellaneous

1. B-294 - Asheville, City of, N.C. - Order Approving the Lease and Option Agreement Between Suburban Coach Lines and the City of Asheville (6-10-69) 169

2. B-128, Sub 1 - Dillahunt, John T. - Order Approving Supplementary Agreement Extending the Terms of the Lease Agreement Between Floyd Hill and John T. Dillahunt (7-8-69) 177

3. B-69, Sub 102 - Queen City Coach Company Order Cancelling Lease Agreement Between Queen City Coach Co. and Power City Bus Company (7-15-69) 179

4. B-82, Sub 13 - Silver Fox Lines - Recommended Order Approving Petition to Discontinue Service (6-24-69) 179

VI. MOTOR TRUCKS

A. Authority Cancelled

1. T-556, Sub 3 - Bracey's Transfer, Inc. Order Cancelling Authority (12-17-69) 183

B. Authority Denied and/or Dismissed

1. T-640, Sub 6 - B & L Trucking Company - Order Denying and Dismissing Application (11-6-69) 189

2. T-1463 - Bell, Charles W., Hauling and Grading Company - Recommended Order Denying and Dismissing Application (10-16-69) 198

3. T-681, Sub 29 - Helms Motor Express, Inc. Order Denying Petition (5-14-69) 201

4. T-1437 - Naylor Mobile Homes Order Denying Application (5-1-69) 203

5. T-208, Sub 29 - Overnite Transportation Company Recommended Order Denying Application (7-11-69) 210

6. T-480, Sub 27 - Thurston Motor Lines, Inc. Recommended Order Denying Application (8-27-69) 219

7. T-480, Sub 27 - Thurston Motor Lines, Inc. Amendment to Order of August 27, 1969 (8-30-69) 226

C. Authority Revoked

1. T-1053, Sub 3 - Childers Transfer Company Recommended Order Revoking Certificate (6-3-69) 229

D. Cancellations

1. T-773, Sub 1 - Wilkinson, Elmer N., Transfer Order Cancelling Certificate in Part (5-14-69) 231

E. Franchise Certificates and Permits

1. T-1469 - A. K. Motors - Order Granting Application (8-11-69) 234

2. T-263, Sub 5 - Alexander Trucking Company Recommended Order Granting Additional Authority (6-3-69) 240

3. T-1480 - Allstate Mobile Home Service, Inc. Order Granting Application (11-18-69) 245

4. T-1409, Sub 2 - Coastal Truckways, Inc. Order Granting Application (9-25-69) 250

5. T-1464 - Country Enterprises, Inc. Recommended Order Granting Authority to Transport Mobile Homes (8-13-69) 253

6. T-1452 - Curtis, Bruce, Trucking Company Order Granting Authority Shown by the Amended Application (4-30-69) 261

7. T-1472 - Davie Truckers, Inc. - Order Granting Contract Carrier Permit (9-30-69) 264

8. T-1313, Sub 1 - Davis, Lewis Thompson, Jr. Order Granting Contract Carrier Permit and Amending Presently Held Permit (3-18-69) 268

9. T-1445 - First Courier Corporation Order Granting Permit (8-1-69) 270

10. T-1465 - Floyd, Ted Leo - Order Granting Contract Carrier Permit (7-7-69) 278

11. T-645, Subs 13 & 14 - Fredrickson Motor Express Corporation - Order Approving Application and Granting Additional Authority (2-28-69) 281

12. T-1447 - Hargrove's Mobile Home Movers Recommended Order Granting a Common Carrier Certificate (3-13-69) 284

13. T-681, Sub 28 - Helms Motor Express, Inc. Recommended Order Granting Additional Operating Authority (7-21-69) 287

14. T-681, Sub 28 - Helms Motor Express, Inc. Order Correcting Clerical Omission in Order of July 21, 1969 (8-11-69) 290

15. T-1461 - High Point Delivery Company, Inc. Recommended Order Granting a Contract Carrier Permit (9-15-69) 291

16. T-320, Sub 6 - Holt, H. R. - Order Granting Application (4-21-69) 294

17. T-1484 - Lee Oil Company of Greensboro, Inc. Recommended Order Granting a Contract Carrier Permit (12-16-69) 299

18. T-149, Sub 18 - Maybelle Transport Company Recommended Order Granting Authority (4-29-69) 302

19. T-448, Sub 5 - McCotter, J. D., Inc. - Order Granting Motor Common Carrier Authority (6-17-69) 304

20. T-1482 - Merritt, D. B. - Recommended Order Granting Contract Carrier Permit (12-10-69) 307

21. T-1470 - Mullis, Brandon L. - Recommended Order Granting Application (9-4-69) 310

22. T-1443 - Raleigh Delivery Service, Inc. Order Granting Contract Carrier Permit (3-3-69) 312

23. T-1457 - Reeves Mobile Home Service Order Granting Authority (6-18-69) 318

24. T-1367, Sub 4 - Schwerman Trucking Company Order Granting Application (6-19-69) 320

25. T-1467 - Stanley Mobile Home Movers Recommended Order Granting Authority (8-22-69) 323

26. T-1072, Sub 2 - Sugar Transport, Inc. Recommended Order Granting Application (11-14-69) 325

27. T-1462 - Wachovia Courier Corporation Order Granting a Contract Carrier Permit (9-5-69) 331

28. T-1096, Sub 5 - Wilson Merchant Delivery Service, Inc. - Order Granting Contract Carrier Permit (7-28-69) 337

F. Rates

1. T-825, Subs 104 & 119 - Rates-Truck - Proposed Revised Rates and Charges on Unmanufactured Tobacco, Leaf or Scrap, and of Proposed Detention Rules and Charges and Revised Rates on Unmanufactured Tobacco and Related Commodities - Order Granting in Part and Denying in Part (4-14-69) 340

2. T-825, Subs 104 & 119 - Rates-Truck - Proposed Revised Rates and Charges on Unmanufactured Tobacco, Leaf or Scrap, and of Proposed Detention Rules and Charges and Revised Rates on Unmanfactured Tobacco and Related Commodities - Order Correcting Commission's Order of April 14, 1969 (4-28-69) 349

3. T-825, Sub 120 - Rates-Truck - Proposed Increase in Rates on Commodities in Bulk, Scheduled Effective October 10, 1968 - Order Granting Increase (1-23-69) 350

4. T-825, Sub 120 - Rates-Truck - Proposed Increase in Rates on Commodities in Bulk, Scheduled Effective October 10, 1968 - Order Granting Petition for Certain Relief from Provisions of the Order Dated 1-23-69 (9-3-69) 355

5. T-825, Sub 122 - Rates-Truck - Proposed Increase in Rates and Charges Applicable on Telephone Equipment - Order Denying Increase (3-17-69) 356

6. T-825, Sub 123 - Rates-Truck - Proposed Revision in Motor Common Carrier Rates and Charges Applicable on Cement, Lime and Related Commodities - Order Granting Increase (3-17-69) 359

7. T-825, Sub 123 - Rates-Truck - Proposed Revision in Motor Common Carrier Rates and Charges Applicable on Cement, Lime and Related Commodities - Order Granting Petition for Certain Relief from Provisions of the Order Dated 3-17-69 (10-6-69) 364

8. T-825, Sub 124 - Rates-Truck - Proposed Revised Rates, Rules and Regulations and Charges Applicable for Transportation of Mobile Homes and House Trailers - Order Granting Proposed Changes (7-7-69) 365

9. T-825, Sub 127 - Rates-Truck - Proposed Increase in Motor Common Carrier Rates and Charges Applicable on Household Goods Order Granting Proposed Increase (7-8-69) 368

10. T-825, Subs 129 & 130 - Rates-Truck - Proposed Motor Truck Rule and Charge for Cleaning of Tank Vehicles Scheduled to Become Effective August 16, 1969 (Sub 129), and Proposed Increase in Rates on Commodities, in Bulk, Scheduled to Become Effective October 6, 1969 (Sub 130) - Order Granting Proposals (11-19-69) 374

G. Sales and Transfers

1. T-1386, Sub 3 - A & J Motor Lines, Inc., from Lacy D. Britt - Recommended Order Granting Transfer (7-30-69) 381

2. T-1468 - Economy Transport from C & S Transport Order Approving Sale and Transfer (8-25-69) 385

3. T-1425 - Glosson Motor Lines, Inc., from West Brothers Transfer and Storage, Inc. Recommended Order Approving Sale (5-28-69) 390

4. T-1479 - Hemingway Transport, Inc., from the New Dixie Lines, Inc. - Order Approving Sale and Transfer of Stock and Operating Authority (11-12-69) 393

5. T-139, Sub 13 - M & M Tank Lines, Inc., from Service Transportation Corporation - Order Permitting Sale (7-2-69) 402

6. T-681, Sub 30 - McRae Industries, Inc., from Helms Motor Express, Inc. - Order Approving Sale and Transfer of Stock (9-5-69) 407

7. T-23, Sub 6 - Metro Express Delivery, Inc., from Marie Rhodes Hyder - Order Transferring Certificate (9-3-69) 412

8. T-1196, Sub 3 - Northeastern Trucking Company from Helderman Trucking Company, Inc. - Order Approving Sale and Transfer (3-18-69) 419

9. T-1444 - Parrish Transport Company from Parrish Oil Company - Order Approving Transfer (3-19-69) 425

10. T-1455 - Pendergrass, T. J., from Nixon Brothers Transfer - Order Approving Sale and Transfer (6-27-69) 427

11. T-1460 - Wilco Transport, Inc., from Apex Motor Line, Inc. - Order Approving Application (8-4-69) 431

12. T-1458 - Williams Haulers from I & S Truckers Service, Inc. - Order Approving Sale and Transfer (8-11-69) 435

H. Miscellaneous

1. T-1474 - Easton Mobile Homes - Order Sustaining Motion for Judgment as of Nonsuit and Dismissing Application (12-22-69) 440

2. T-1477 - Sherron Trucking Company - Order Sustaining Motion for Judgment as of Nonsuit and Dismissing Application (11-14-69) 444

3. T-1478 - Sparks, Dewitt P., Jr. - Order Sustaining Motion for Judgment as of Nonsuit and Dismissing Application (12-29-69) 447

VII. RAILROADS

A. Discontinuance of Agency Stations

1. R-20, Sub 7 - Durham & Southern Railway Company Agency Station at Angier and Coats, N.C. Order Granting Petition (12-10-69) 451

2. R-29, Sub 181 - Southern Railway Company Agency Station at Tuxedo, N.C. - Recommended Order Granting Application (8-28-69) 454

3. R-29, Sub 182 - Southern Railway Company Agency Station at Saluda, N.C. - Recommended Order Granting Application (8-28-69) 456

B. Rates

1. R-66, Sub 58 - Rates-Railroad - Petition for Authority to Apply on North Carolina Intrastate Traffic the Same Increases in Rail Rates and Charges as Now Applicable on Interstate Traffic Order Granting in Part and Denying in Part (8-29-69) 459

VIII. TELEGRAPH

A. Rates

1. WU-75 - Western Union Telegraph Company, The Order Granting Rate Increase (9-25-69) 467

IX. TELEPHONE

A. Radio Common Carriers

1. P-95 - Anserphone of Goldsboro, Incorporated Order Granting Certificate of Convenience and Necessity (5-15-69) 472

2. P-93 - Office Communications Company - Order Operating as a Certificate of Exemption (7-28-69) 475

B. Rates

1. P-16, Sub 86 - Concord Telephone Company, The Order Approving an Increase in Rates and Charges (5-19-69) 480

2. P-62, Sub 31 - Eastern Rowan Telephone Company Inc. - Order Approving Adjustment of Rates and Charges (7-7-69) 492

3. P-19, Subs 94 & 95 - General Telephone Company of the Southeast - Order Approving Service Improvement Program and Amending Commission Order Dated December 19, 1968 (5-19-69) 498

4. P-29, Sub 61 - Lee Telephone Company - Order Granting Authority to Increase its Rates and Charges (7-28-69) 502

5. P-55, Sub 578 - Southern Bell Telephone and Telegraph Company - Order Granting in Part and Denying in Part (7-8-69) 525

C. Miscellaneous

1. P-7, Sub 446 - Carolina Telephone and Telegraph Company - Proposal to Adjust Exchange Service Area Boundary - Order Granting in Part and Denying in Part (10-1-69) 531

2. P-7, Sub 454 - Carolina Telephone and Telegraph Company - Order Approving Tariff Changes (9-26-69) 536

3. P-7, Sub 459 - Carolina Telephone and Telegraph Company - Tariff Filing for New Service, an Alarm Coupler - Order Granting in Part and Denying in Part (9-25-69) 541

4. P-31, Sub 74 - Lexington Telephone Company Petition of Piedmont Telephone Membership Corporation and Churchland Mutual Telephone Company, Inc., for Territorial Protection in Accordance with the Agreement - Modified Order Upon Reopened Proceeding (7-8-69) 545

X. WATER AND SEWER

A. Franchise Certificates

1. W-177, Sub 4 - Brookwood Water Corporation Order Granting Amendment to Certificate of Public Convenience and Necessity (6-30-69) 557

2. W-177, Sub 6 - Brookwood Water Corporation Order Amending Certificate of Public Convenience and Necessity (2-24-69) 563

3. W-177, Sub 7 - Brookwood Water Corporation Order Amending Certificate of Public Convenience and Necessity (2-24-69) 566

4. S-5 - Carmel Country Club, Inc. - Recommended Order Granting Certificate of Public Convenience and Necessity (5-2-69) 570

5. W-43, Sub 5 - LaFayette Water Corporation Order Granting Amendment to Certificate of Public Convenience and Necessity (7-24-69) 572

6. W-257 - P & H Water Company, Inc. - Order Granting Certificate of Public Convenience and Necessity (6-18-69) 579

7. W-225, Sub 6 - Quality Water Supplies, Inc. Order Granting Amendment to Certificate of Public Convenience and Necessity (6-3-69) 580

8. W-254, Sub 1 - Regional Utility Company - Order Amending Certificate of Public Convenience and Necessity (4-2-69) 583

9. W-253 - Rhyne, James D. - Order Granting Certificate of Public Convenience and Necessity (6-3-69) 587

10. S-4 - Sardis Utilities Company - Recommended Order Granting Certificate of Public Convenience and Necessity (3-26-69) 589

11. W-256 - Urban Water Co. - Order Granting Certificate of Public Convenience and Necessity (4-28-69) 590

B. Rates

1. W-158, Sub 5 - General Investment Corporation Order Setting Rates and Charges (9-12-69) 592

Subject Index to Orders Not Reported

TABLE OF ORDERS

Not Printed

Condensed Outline

I. ELECTRICITY (Detailed Outline p. 613)
- A. Securities Authorized
- B. Service Areas
- C. Miscellaneous

II. MOTOR BUSES (Detailed Outline p. 617)
- A. Bus Stations
- B. Cancelled Certificates and Permits

III. MOTOR TRUCKS (Detailed Outline p. 617)
- A. Cancellations
- B. Change in Name
- C. Franchise Certificates and Permits
- D. Sales and Transfers
- E. Stock Sales and Transfers
- F. Miscellaneous

IV. RAILROADS (Detailed Outline p. 621)
- A. Agency Stations
- B. Miscellaneous

V. TELEGRAPH (Detailed Outline p. 623)
- A. Securities

VI. TELEPHONE (Detailed Outline p. 623)
- A. Radio Common Carriers
- B. Securities Authorized
- C. Miscellaneous

VII. WATER AND SEWER (Detailed Outline p. 628)
- A. Complaints
- B. Exemptions
- C. Franchise Certificates
- D. Sales and Transfers

TABLE OF ORDERS

Not Printed

Detailed Outline

I. ELECTRICITY

A. Securities Authorized

1.	Carolina Power & Light Company 1,000,000 Shares of Common Stock, Without Par Value	E-2, Sub 176	5-29-69
2.	Carolina Power & Light Company Supplemental Order Negotiating the Sale of Common Stock not to Exceed 1,000,000, Without Par Value	E-2, Sub 176	8-28-69
3.	Carolina Power & Light Company Second Supplemental Order Annexing the Form to the Original Application for the Sale of 1,000,000 Shares of Common Stock, Without Par Value	E-2, Sub 176	9-16-69
4.	Carolina Power & Light Company 40,000,000 of First Mortgage Bonds Under the Company's Mortgage & Deed of Trust	E-2, Sub 185	12-22-69
5.	Duke Power Company - 75,000,000 Preferred Stock of a New Series of First and Refunding Mortgage Bonds	E-7, Sub 115	7-30-69
6.	Duke Power Company - Supplemental Order	E-7, Sub 115	8-26-69
7.	Virginia Electric & Power Company - 75,000,000 Preferred Stock of First and Refunding Mortgage Bonds	E-22, Sub 107	5-19-69
8.	Virginia Electric & Power Company - Supplemental Order	E-22, Sub 107	6-3-69
9.	Virginia Electric & Power Company - Issuance of Common Stock not to Exceed 28,000 Shares	E-22, Sub 111	9-22-69

B. Service Areas

1.	Electric Suppliers - Carolina	ES-31	3-27-69

	Power & Light Company, Duke Power Company, and Randolph EMC Order Assigning Service Areas in Chatham County		
2.	Electric Suppliers - Carolina Power & Light Company, Pee Dee EMC, and Laurel Hill Electric Company - Order Assigning Service Areas in Scotland County	ES-32	4-9-69
3.	Electric Suppliers - Carolina Power & Light Company & Pee Dee EMC - Order Assigning Service Areas in Richmond County	ES-33	3-27-69
4.	Electric Suppliers - Carolina Power & Light Company, Davidson EMC, Pee Dee EMC, and Randolph EMC - Order Assigning Service Areas in Montgomery County	ES-34	3-27-69
5.	Electric Suppliers - Carolina Power & Light Company and Pee Dee EMC - Order Assigning Service Areas in Anson County	ES-35	3-27-69
6.	Electric Suppliers - Carolina Power & Light Company, Nantahala Power & Light Company, & Haywood EMC - Order Assigning Service Areas in Jackson County	ES-38	9-23-69
7.	Electric Suppliers - Nantahala Power & Light Company and Haywood EMC - Order Assigning Service Areas in Macon County	ES-39	8-21-69
8.	Electric Suppliers - Nantahala Power & Light Company and Haywood EMC - Order Amending Original Order Assigning Service Areas in Macon County	ES-39	8-29-69
9.	Electric Suppliers - Nantahala Power & Light Company - Order Assigning Service Areas in Graham & Swain Counties	ES-40	4-8-69
10.	Electric Suppliers - Virginia Electric & Power Company, Pamlico Power & Light Company, Cape Hatteras EMC, and Ocracoke EMC - Order Assigning Service Areas in Dare County	ES-41	4-10-69

No.	Description	Docket	Date
11.	Electric Suppliers - Virginia Electric & Power Company Order Assigning Service Areas in Tyrrell County	ES-42	4-10-69
12.	Electric Suppliers - Duke Power Company and Union EMC - Order Assigning Service Areas in Cabarrus, Mecklenburg, and Union Counties	ES-43	7-31-69
13.	Electric Suppliers - Carolina Power & Light Company, Duke Power Company, and Union EMC Order Assigning Service Areas in Stanly County	ES-44	7-31-69
14.	Electric Suppliers - Duke Power Company & Haywood EMC - Order Assigning Service Areas in Transylvania County	ES-45	8-26-69
15.	Electric Suppliers - Virginia Electric & Power Company, Pamlico Power & Light Company, and Ocracoke EMC - Order Assigning Service Areas in Hyde County	ES-46	8-26-69
16.	Electric Suppliers - Carolina Power & Light Company, Duke Power Company, Piedmont EMC, and Randolph EMC - Order Assigning Service Areas in Alamance County	ES-47	9-25-69
17.	Electric Suppliers - Carolina Power & Light Company, Blue Ridge EMC, and Mountain Electric Cooperative - Order Assigning Service Areas in Avery County	ES-49	10-29-69
18.	Electric Suppliers - Carolina Power & Light Company and Haywood EMC - Order Assigning Service Areas in Haywood County	ES-50	11-7-69
19.	Electric Suppliers - Carolina Power & Light Company, French Broad EMC, and Haywood EMC Order Assigning Service Areas in Buncombe County	ES-54	12-19-69
20.	Electric Suppliers - Carolina Power & Light Company and Brunswick EMC - Order Assigning	ES-57	12-19-69

	Service Areas in Columbus County		
21.	Electric Suppliers - Carolina Power & Light Company and Lumbee River EMC - Order Assigning Service Areas in Moore County	ES-58	12-19-69
22.	Electric Suppliers - Carolina Power & Light Company and Lumbee River EMC - Order Assigning Service Areas in Scotland County	ES-59	12-19-69
23.	Electric Suppliers - Carolina Power & Light Company and Lumbee River EMC - Order Assigning Service Areas in Hoke County	ES-60	12-19-69
24.	Electric Suppliers - Carolina Power & Light Company, Lumbee River EMC, and South River EMC - Order Assigning Service Areas in Cumberland County	ES-61	12-19-69
25.	Electric Suppliers - Carolina Power & Light Company and Piedmont EMC - Order Assigning Service Areas in Caswell County	ES-64	12-19-69
26.	Electric Suppliers - Carolina Power & Light Company and South River EMC - Order Assigning Service Areas in Harnett County	ES-65	12-22-69
27.	Electric Suppliers - Carolina Power & Light Company, South River EMC, and Tri-County EMC Order Assigning Service Areas in Sampson County	ES-66	12-19-69
C.	Miscellaneous		
1.	Carolina Power & Light Company Special Billing Arrangement Under Small General Service Schedule Between CP&L and Henderson Community Antenna Television, Inc.	E-2, Sub 180	9-19-69
2.	Carolina Power & Light Company Special Billing Arrangement Under Small General Service Schedule Between CP&L and Triangle Cable Company, Inc.	E-2, Sub 184	12-5-69

II. MOTOR BUSES

A. Bus Stations

1.	Carolina Coach Company, Greyhound Lines, Inc., Southern Coach Company, Queen City Coach Company and Virginia Stage Lines, Inc. - Authority to Discontinue Board of Directors Operation of Durham Union Bus Station and to Permit Carolina Coach Company to Operate Said Station	B-275, Sub 36	2-11-69

B. Cancelled Certificates and Permits

1.	City of Asheville - (Asheville Transit Authority) - Order Cancelling Certificate No. B-102	B-102, Sub 9	6-10-69
2.	Belser, Glen H., Wilmington, N. C. - Order Cancelling Permit	B-285	12-29-69
3.	Burke, J. C., d/b/a Community Bus Company - Order Cancelling Certificate	B-51	7-2-69
4.	Credle, Preston, New Bern, N. C. - Order Cancelling Permit	B-127, Sub 2	8-6-69

III. MOTOR TRUCKS

A. Cancellations

1.	Buchanan, W. O. - Order Cancelling Permit	T-1384	6-24-69
2.	Cheek Oil Company, Inc. Order Cancelling Permit	T-1350, Sub 1	10-3-69
3.	Hamilton, R. M. - Order Cancelling Certificate	T-1601, Sub 1	10-21-69
4.	The Hauling and Rigging Corporation - Order Cancelling Permit	T-772, Sub 4	4-2-69
5.	Secrest, Ivan, Wrecker Service Order Cancelling Certificate	T-1410	7-17-69
6.	Jaber Trucking Company Order Cancelling Permit	T-1289, Sub 1	9-17-69
7.	Marine Forwarders, Inc. Order Affirming Cancellation	T-1190	9-2-69

8.	Moore, R. N. - Order Cancelling Permit	T-99, Sub 2	4-29-69
9.	Parrish Transport Company Order Cancelling Permit	T-1444	4-23-69
10.	Spruill, Jesse J. - Order Cancelling Portion of Certificate	T-39, Sub 3	4-23-69
11.	Tarlton, James E. - Order Cancelling Permit	T-169, Sub 2	3-5-69
12.	Whitley, M. C. - Order Cancelling Certificate	T-53, Sub 3	3-19-69
13.	Workman's Motor Lines Order Cancelling Lease Agreement Between Callahan Transfer and Workman's Motor Lines	T-1356	5-21-69

B. Change in Name

1.	First Courier Corporation Order Approving Change in Corporate Name	T-1445	9-20-69
2.	S. C. P. Trucking Co., Inc. Order Approving Change in Corporate Name	T-1409, Sub 1	7-17-69

C. Franchise Certificates and Permits

1.	A & J Motor Lines, Inc. Order Approving Franchise Lease	T-1386, Sub 2	3-19-69
2.	American Truck Lines, Inc. Order Amending Exhibit B of Common Carrier Certificate No. C-110	T-163, Sub 2	5-14-69
3.	Floyd, Ted Leo - Order Amending Permit	T-1465	9-17-69
4.	Hawn Trucking Service - Order Revoking Certificate	T-1002, Sub 2	7-10-69
5.	Lee Oil Company of Greensboro, Inc. - Order Granting Temporary Authority	T-1484	10-14-69
6.	Merritt, D. B. - Order Granting Temporary Authority	T-1482	10-1-69

D. Sales and Transfers

1.	Barnes Motor Lines from Goode Motor Lines	T-1451	4-9-69
2.	Black's Motor Express, Inc., from Black's Motor Express	T-243, Sub 5	10-21-69
3.	Brawley, Joe, Trucking, Inc., from Brawley Transportation Company	T-1415, Sub 1	6-3-69
4.	C. & S. Motor Express, Inc., from C. & S. Motor Express Company	T-675, Sub 2	11-26-69
5.	Carolina Delivery Service Company from Citizen Express, Inc.	T-92, Sub 4	6-3-69
6.	Cheek Oil Company, Inc., from F. M. Cheek	T-1350, Sub 1	9-5-69
7.	City Transfer & Storage Co. (a corporation) from City Transfer and Storage Company	T-416, Sub 5	12-23-69
8.	Conner, J. J., and Sons Moving & Stg. Company from Shaw Moving and Storage, Inc., Circle M and Industrial Center	T-1453	4-9-69
9.	Corn's Transfer from Neal R. White	T-922, Sub 2	6-30-69
10.	Estes Express Lines from Carolina-Norfolk Truck Line, Inc.	T-676, Sub 4	4-25-69
11.	Fernstrom Storage and Van Company from Cates Transfer	T-1473	9-30-69
12.	Eggleston, Gorris, Oil Transport, Inc., from Eggleston Oil Transport	T-136, Sub 2	3-5-69
13.	Grady Moving and Storage, Inc., from J. T. Good Transfer Company	T-1459	6-6-69
14.	Jarrett & Son Trucking Co., Inc., from Textile Trucking Co., Inc.	T-1487	12-29-69
15.	McCauley Moving & Storage of Fayetteville, Inc., from McCauley's Moving and Storage	T-552, Sub 2	7-24-69

16.	Macon, Robert L., Inc., from W. Judson Burnette, Inc.	T-1486	12-29-69
17.	Martin Motor Lines, Inc., from Martin Motor Lines	T-774, Sub 2	9-30-69
18.	Martin, Roger E., Inc., from Martin, Roger E.	T-1193, Sub 1	9-30-59
19.	Murrow's Transfer, Incorporated, from F & B Truck Line, Inc.	T-90, Sub 4	7-15-69
20.	Piedmont Movers, Inc., from S. J. Thomas Transfer	T-1454	4-23-69
21.	Piedmont Van and Storage Co. (a corporation) from Heritage Van Lines, Inc.	T-1483	11-14-69
22.	Royster & Weddle Housetrailer Towing Service - Clyde L. Weddle from Ruth P. Royster and Clyde L. Weddle	T-1136, Sub 1	4-23-69
23.	Simpson, A. C., Transfer Clarence Joseph Simpson from A. C. Simpson	T-844, Sub 1	6-10-69
24.	Tar Heel Moving & Storage from Callahan Transfer	T-1471	9-30-69
25.	Terminal Storage Company, Inc., from Stevens Transfer	T-1476	10-30-69
26.	Wilson Freight Company (a corporation) from Shaw Motor Freight, Inc.	T-1475	9-10-69
27.	Wooten Transfer & Storage Co., Inc., from Wooten Transfer & Storage	T-1129, Sub 5	8-27-69

E. Stock Sales and Transfers

1.	Baker, A. L., from E. L. Crummie - Order Approving Stock Transfer of Modern Moving & Storage, Inc.	T-822, Sub 3	4-8-69
2.	Cromartie Transport Company (a corporation) - Order Approving Change of Control Through Stock Transfer	T-245, Sub 11	7-24-69

3. Cromartie Transport Company (a corporation) - Amended Order Approving Change of Control Through Stock Transfer	T-245, Sub 11	7-25-69
4. Custom Transport, Inc. - Order Approving Stock Transfer	T-569, Sub 5	6-11-69
5. H & P Transit Company - Order Approving Change of Control	T-151, Sub 10	10-21-69
6. Multimedia, Inc., from Carolina Delivery Service Company, Inc. - Order Approving Change of Control Through Stock Transfer	T-92, Sub 3	6-3-69
7. N. C. Food Express, Inc. Order Approving Stock Transfer	T-1092, Sub 5	8-27-69
8. Sun Oil Company from B & M Transportation Company - Order Approving Stock Transfer	T-267, Sub 4	4-10-69
F. Miscellaneous		
1. Hemingway Transport, Inc. Order Approving Temporary Management Agreement and Acquisition of all Outstanding Stock of The New Dixie Lines, Incorporated	T-1479	9-11-69
2. Mills Transfer & Storage Company - Order Authorizing Suspension of Operations (Commissioner Biggs Concurring)	T-1029, Sub 4	6-27-69
3. Overnite Transportation Company Order Disallowing and Denying Exceptions to the Recommended Order of 7-11-69 Filed by the Applicant (Commissioner Biggs Dissenting)	T-208, Sub 29	9-17-69
IV. RAILROADS		
A. Agency Stations		
1. Norfolk Southern Railway Company - Order Granting Application to Discontinue Operation of Station Agency at Vanceboro, N. C.	R-4, Sub 58	5-27-69

2.	Norfolk Southern Railway Company - Order Granting Application to Discontinue Operation of Station Agency at Bayboro, N. C.	R-4, Sub 59	5-20-69
3.	Norfolk Southern Railway Company - Order Granting Application to Discontinue Operation of Agency Station at Mackeys, N.C.	R-4, Sub 60	12-3-69
4.	Norfolk Southern Railway Company - Order Granting Application to Discontinue Chalybeate, N. C., as a Non-Agency Station and to Retire Team Track at that Point	R-4, Sub 61	12-4-69
5.	Railway Express Agency, Inc. Order Granting Application to Close and Discontinue its Office at Bayboro, N.C.	R-5, Sub 243	5-20-69
6.	Railway Express Agency, Inc. Order Granting Application to Relocate its Agency Facilities in Hickory, N.C.	R-5, Sub 244	4-21-69
7.	Railway Express Agency, Inc. Order Granting Application to Close its Agency at Wake Forest, N.C., and Relocate its Agency in Laurinburg, N.C.	R-5, Sub 245	6-17-69
8.	Railway Express Agency, Inc. Order Granting Application to Relocate its Agency Facility at Havelock, N.C.	R-5, Sub 246	8-12-69
B.	Miscellaneous		
1.	Seaboard Coast Line Railroad Company - Order Granting Petition to Make Certain Changes in the Schedules and Operation of its Streamliners Between the East and Florida Through North Carolina	R-71, Sub 5	5-26-69
2.	Southern Railway Company Order Granting Petition to Handle all Passenger Traffic in Asheville, N. C., from its Station on Brook Street	R-29, Sub 180	10-22-69

V. TELEGRAPH

A. Securities

1. Western Union Telegraph Company Order Granting Authority to Issue and Sell up to 1,500,000 Shares of Additional Common Stock Under G. S. 62-161	WU-77	4-3-69
2. Western Union Telegraph Company Supplemental Order to Order Issued 4-3-69 - Order Authorizing Extension of Maturity Date for all Unsecured Notes	WU-77	12-15-69
3. Western Union Telegraph Company Order Granting Authority to Issue and Sell Upon Exercise of Options up to 150,000 of its Common Shares Under G. S. 62-161	WU-78	7-18-69

VI. TELEPHONE

A. Radio Common Carriers

1. Anserphone - Order Granting Certificate of Public Convenience and Necessity to Operate as a Common Carrier in Intrastate Communications Providing Mobile Radio Common Carrier Service in Raleigh, N. C., and to Provide a Radio Voice Paging System and a Tone Paging System Within a 30-Mile Radius of Raleigh, N. C.	P-96	7-24-69
2. Communication Specialists Company - Order Granting Certificate of Convenience and Necessity as a Radio Common Carrier With Antenna Based in Wilmington, N. C.	P-97	7-29-69
3. Lenoir Communications Company Order Granting Certificate of Convenience and Necessity as a Radio Common Carrier With Antenna Based in Lenoir, N. C.	P-101	8-11-69
4. Mobile Radiotelephone Corporation - Order Granting Certificate of Convenience and Necessity as a Radio Common	P-98	8-11-69

	Subject	Docket	Date
	Carrier With Antenna Based 2.1 Miles East of Grifton, N. C.		
5.	Ormond's Inc. - Order Granting Certificate of Convenience and Necessity as a Radio Common Carrier With Antenna Based in Fayetteville, N. C.	P-99	8-11-69
6.	Radio Paging & Telephone Answering Service of Charlotte, Inc. - Order Granting Certificate of Convenience and Necessity as a Radio Common Carrier With Antenna Based in Charlotte, N. C.	P-102	8-11-69
7.	Raleigh Radio Paging Service, Inc. - Order Granting Certificate of Convenience and Necessity as a Common Carrier With Antenna Based in Raleigh, N. C.	P-104	8-11-69
8.	Telephone Answering Service of Fayetteville, Inc. - Order Granting Certificate of Convenience and Necessity as a Radio Common Carrier With Antenna Based in Fayetteville, N. C.	P-103	8-11-69
B.	Securities Authorized		
1.	Carolina Telephone & Telegraph Co. - Authority to Sell $45,000,000 Principal Amount Debentures	P-7, Sub 458	8-1-69
2.	Carolina Telephone & Telegraph Co. - Supplemental Order Adding Further Provisions to Order of 8-1-69	P-7, Sub 458	8-11-69
3.	Central Telephone Company Authority to Sell $25,000,000 Principal Amount of First Mortgage and Collateral Lien Sinking Fund Bonds, Series V	P-10, Sub 277	6-25-69
4.	Citizens Telephone Company Authority to Borrow $1,430,000 from the U.S.A. Under a Rural Electrification Administration "G" Loan	P-12, Sub 50	4-2-69

5.	Citizens Telephone Company Authority to Borrow $500,000 from the U.S.A. Through the Administrator of the Rural Electrification Administration	P-12, Sub 52	12-5-69
6.	Concord Telephone Company Authority to Sell $1,150,000 Principal Amount of First Mortgage Bonds, 9-1/4% Series G	P-16, Sub 94	12-5-69
7.	Ellerbe Telephone Company Authority to Borrow $104,000 from the U.S.A. Through the Administrator of the Rural Electrification Administration	P-21, Sub 20	8-20-69
8.	First Colony Telephone Company Authority to Borrow $3,246,411.23 from the U.S.A. Through the Administrator of the Rural Electrification Administration	P-28, Sub 11	10-8-69
9.	General Telephone Company of North Carolina - Authority to Sell 60,000 Shares of Common Stock to General Telephone Electronics Corporation	P-36, Sub 59	10-30-69
10.	General Telephone Company of the Southeast - Authority to Sell 520,000 Shares of Common Stock to General Telephone & Electronics Corporation	P-19, Sub 101	6-18-69
11.	Heins Telephone Company Authority to Increase its Authorized Capital Stock and to Issue Two Additional Shares of Common Stock	P-26, Sub 59	8-22-69
12.	Lee Telephone Company Authority to Sell 170,000 Shares of its Common Capital Stock	P-29, Sub 68	9-22-69
13.	Lexington Telephone Company Authority to Sell its Twenty-Five Year Sinking Fund Note in the Aggregate Principal Amount of $500,000	P-31, Sub 78	4-14-69
14.	Lexington Telephone Company Authority to Split its Common Stock by Issuing One Share of Each Five Now Outstanding; to	P-31, Sub 82	11-26-69

	Issue and Sell 9,000 Shares of its Voting and 19,200 Shares of Nonvoting Common Stock; and to Negotiate the Sale of $1,500,000 Sinking Fund Note or Notes		
15.	North State Telephone Company Authority to Issue and Sell 30-Year, 9% Sinking Fund Notes in the Principal Amount of $2,000,000, and 20-Year, 9% Sinking Fund Notes in the Principal Amount of $1,000,000	P-42, Sub 67	12-4-69
16.	The Oldtown Telephone System, Inc. - Authority to Borrow from the U.S.A. $830,000 Through the Administrator of the Rural Electrification Administration and to Execute the Notes and Amend a Certain Telephone Loan Contract	P-44, Sub 55	12-5-69
17.	Randolph Telephone Company Authority to Borrow $467,000 from the U.S.A. Through the Electrification Administration Under an "P" Loan; Authority to Provide the Entire Area for Both Residential and Business Service; and to Discontinue Offering the Two-Party Service	P-61, Sub 42	3-28-69
18.	Sandhill Telephone Company Authority to Sell up to 10,000 Shares of its Series C Cumulative Preferred Stock	P-53, Sub 29	8-12-69
C.	Miscellaneous		
1.	Central Telephone Company Order Approving Increase in Advances not to Exceed $7,500,000 to Lee Telephone Company from Parent and Affiliated Corporations	P-29, Sub 42	7-2-69
2.	Central Telephone Company Amendment to Order of 7-2-69, Order Approving Increase in Advances not to Exceed $10,000,000 to Lee Telephone Company from Parent and Affiliated Corps.	P-29, Sub 42	7-23-69

3.	First Colony Telephone Company Order Granting Service Agreement with Continental Telephone Corporation and Approval of Directory Contract with Leland Mast Directory Co.	P-28, Sub 10	7-2-69
4.	General Telephone Company of North Carolina - Order Requiring General Service Investigation of Telephone Service at Monroe, Goose Creek, and Altan, N. C.	P-36, Sub 56	9-4-69
5.	General Telephone Company of the Southeast - Order Approving Contract with the General Telephone Directory Company	P-19, Sub 98	5-18-69
6.	General Telephone Company of the Southeast - Order Approving Contract with GT&E Services Corporation	P-19, Sub 102	10-30-69
7.	Heins Telephone Company Order Granting Authority to Treat Extraordinary Property Retirements in the Net Amount of $89,863.50 on a Deferred Basis to be Amortized Over a 10-Year Period	P-26, Sub 61	9-17-69
8.	Lee Telephone Company - Order Granting Authority to Treat Extraordinary Expenses in the Net Amount of $19,235.83 from 11-11-68 Storm on a Deferred Basis to be Amortized Over a Period of 36 Months	P-29, Sub 65	7-2-69
9.	Lee Telephone Company - Order Granting Authority to Treat Extraordinary Expenses in the Net Amount of $11,040.32 from the 3-1-69 Storm on a Deferred Basis to be Amortized Over a Period of 36 Months	P-29, Sub 66	7-7-69
10.	Lexington Telephone Company Order Approving Purchase of Telephone Plant of Hedrick's Grove Telephone Mutual, Inc., and Revised Exchange Service Area Maps and Revised Base Rate Areas and Rates Therefor	P-31, Sub 77	3-28-69

11.	Mebane Home Telephone Company Order Granting Authority to Treat Extraordinary Property Retirements in the Net Amount of $28,836.59 on a Deferred Basis to be Amortized Over a 10-Year Period	P-35, Sub 50	8-22-69
12.	Westco Telephone Company Order Approving the Telephone Directory Publishing Agreement Between Westco & Leland Mast Directory Co.	P-78, Sub 17	9-30-69
13.	Western Carolina Telephone Company - Order Approving Telephone Directory Publishing Agreement with Leland Mast Directory Company	P-58, Sub 73	9-30-69

VII. WATER AND SEWER

A. Complaints

1.	Corriher Water Service, Inc. Order Dismissing Complaint of Austin McGuire, Jr.	W-233, Sub 2	12-30-69

B. Exemptions

1.	Bogue Banks Water and Sewer Corporation - Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 67	9-12-69
2.	Broyhill Community Water Association, Inc. - Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 68	9-12-69
3.	Cherokee Rural Development Authority - Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 60	3-18-69
4.	Kittrell Water Association, Inc. - Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 69	9-25-69
5.	Lewiston-Woodville Utilities Association, Inc. - Order Exempting Proposed Operation	W-186, Sub 59	6-5-69

from Regulations and Dismissing Application		
6. Marble Community Water Corporation - Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 70	6-5-69
7. Northwest Water Supply, Inc. Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 61	5-2-69
8. Saint Luke Water Corporation Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 63	6-17-69
9. South Aulander Water System Corporation - Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 64	8-13-69
10. South Greene Water Corporation Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 71	10-9-69
11. South Windsor Water Project Association, Inc. - Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 65	8-13-69
12. Wallburg Water, Inc. - Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 62	5-30-69
13. West Davidson Water, Inc. Order Exempting Proposed Operation from Regulations and Dismissing Application	W-186, Sub 66	8-22-69
C. Franchise Certificates		
1. Aqua, Inc. - Order Granting a Certificate of Public Convenience and Necessity	W-270	12-3-69
2. Bethlehem Utilities, Inc. Order Granting a Certificate of Public Convenience and Necessity	W-259	8-22-69

3.	Brookwood Water Corporation Order Amending a Certificate of Public Convenience and Necessity	W-177, Sub 8	7-2-69
4.	Fairway Acres Water System Order Granting a Certificate of Public Convenience and Necessity	W-260	8-26-69
5.	Griffin, Ed, Land Company Order Granting a Certificate of Public Convenience and Necessity	W-266	12-3-69
6.	Iredell Rentals, Inc. - Order Granting a Certificate of Public Convenience and Necessity	W-261	12-19-69
7.	Lanier, H. S. - Order Granting a Certificate of Public Convenience and Necessity	W-264	10-17-69
8.	Lassiter & Harkey Well Drilling Company, Inc. - Order Granting a Certificate of Public Convenience and Necessity	W-238, Sub 1	7-11-69
9.	Lassiter & Harkey Well Drilling Company, Inc. - Order Amending a Certificate of Public Convenience and Necessity	W-238, Sub 2	8-1-69
10.	Quality Water Supplies, Inc. Order Granting a Certificate of Public Convenience and Necessity	W-225, Sub 7	9-25-69
11.	Quality Water Supplies, Inc. Order Granting a Certificate of Public Convenience and Necessity	W-225, Sub 8	11-12-69
12.	Reynolds, L. A., Industrial District, Inc. - Order Granting a Certificate of Public Convenience and Necessity	W-263	9-30-69
13.	SBS Utility Company - Order Granting a Certificate of Public Convenience and Necessity	W-265	11-7-69
14.	Sno-Creek Water System - Order	W-258	7-9-69

Granting a Certificate of Public Convenience and Necessity

15.	Taylor, John R., Company, Inc. Order Authorizing Abandonment of Sewer Service and Cancelling Certificate	W-211, Sub 1	5-19-69
16.	Touch and Flow Water System Order Granting a Certificate of Public Convenience and Necessity	W-201, Sub 6	10-27-69

D. Sales and Transfers

1.	Corriher Water Service - Order Granting Transfer of Certificate	W-233, Sub 1	4-8-69
2.	Kannapolis Sanitary District Order Approving Sale and Cancelling Certificate	W-25, Sub 3	7-17-69
3.	Lafayette Water Corporation Order Approving Sale and Amending Certificate	W-43, Sub 8	10-22-69
4.	West Davidson Water, Inc. Order Approving Sale and Cancelling Certificate	W-213, Sub 2	12-18-69