SIXTY-SECOND REPORT

OF THE

NORTH CAROLINA

UTILITIES COMMISSION

ORDERS AND DECISIONS

Issued from

January 1, 1972, through December 31, 1972

Marvin R. Wooten,* Chairman

John W. McDevitt, Commissioner

Miles H. Rhyne, Commissioner

Hugh A. Wells, Commissioner

NORTH CAROLINA UTILITIES COMMISSION

Office of the Chief Clerk

Mrs. Katherine M. Peele
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.

* Mr. Wooten appointed Chairman upon retirement of Harry T. Westcott on June 30, 1972, leaving one vacancy.

LETTER OF TRANSMITTAL

December 31, 1972

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, 1972, we hereby present for your consideration the report of the Commission's decisions for the twelve-month period beginning January 1, 1972, and ending December 31, 1972.

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

Respectfully submitted,

NORTH CAROLINA UTILITIES COMMISSION

Marvin R. Wooten, Chairman

John W. McDevitt, Commissioner

Miles H. Rhyne, Commissioner

Hugh A. Wells, Commissioner

Katherine M. Peele, Chief Clerk

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OF THE

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DOCKET NO. M-100, SUB 37

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
The revision of Rule R2-46 of the Commission's Motor) ORDER
Carrier Regulations pursuant to G.S. 62-260(f),) ORDER
G.S. 62-261(3), G.S. 62-266(a) and G.S. 62-281)

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 390-398 [formerly Parts 290-298] 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 for hire motor carrier vehicles engaged in interstate commerce and intrastate commerce over the highways of the State of North Carolina, whether common carriers, contract carriers or exempt carriers: provided, that Section 393.95(d) is amended by inserting the words 'or snow tires' immediately following the words 'tire chains'."

and directs that the same shall be in full force and effect from and after February 1, 1972.

BY ORDER OF THE COMMISSION.

This the 17th day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 39

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Rule-Making Proceeding to Investigate and) ORDER
Promulgate Rules to Prohibit Discrimination) ESTABLISHING
in Billing Practices and to Establish Uniform) UNIFORM
Tariff Provisions for Billing of Customers of) BILLING
Electric, Telephone, Gas, Water and Sewer) PROCEDURE
Utilities.) RULE

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina - January 18, 1972, and July 31, 1972.

BEFORE: January 18, 1972 - Chairman Harry T. Westcott, Presiding; Commissioners Marvin R. Wooten, John W. McDevitt, Hugh A. Wells and Miles H. Rhyne

July 31, 1972 - Chairman Marvin R. Wooten, Presiding; Commissioners John W. McDevitt and Miles H. Rhyne

APPEARANCES:

For the Complainant:

Karl N. Hill, Jr.
Jordan, Wright, Nichols, Caffrey & Hill
Attorneys at Law
500 W. Friendly Avenue
Greensboro, North Carolina
Appearing for: Mrs. Patricia K. Byrne

For the Intervener-Protestant:

Thomas J. Rucker
Attorney at Law
Legal Aid Society of Forsyth County
300 Government Center
Winston-Salem, North Carolina
Appearing for: Mrs. Mattie Lee Clark

For the Intervener:

Thomas L. Barringer
Attorney at Law
P. O. Box 2071, Raleigh, North Carolina 27602
Appearing for:
North Carolina Consumers Council, Inc.

For the Respondents:

Steve C. Griffith, Jr.
Duke Power Company
422 S. Church Street
Charlotte, North Carolina 28201
Appearing for: Duke Power Company

Charles F. Rouse and
Henry A. Mitchell, Jr.
Carolina Power & Light Company
P. O. Box 1551, Raleigh, North Carolina
Appearing for: Carolina Power & Light Company

R. C. Howison, Jr.
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina
Appearing for: Nantahala Power & Light Company

R. F. Branon
Southern Bell Legal Department
67 Edgewood Avenue
Atlanta, Georgia
Appearing for:
Southern Bell Telephone and Telegraph Company

K. Byron McCoy and
A. H. Graham, Jr.
Newsom, Graham, Strayhorn, Hedrick & Murray
Attorneys at Law
P. O. Box 2088, Durham, North Carolina 27702
Appearing for:
General Telephone Company of the Southeast

Jerry W. Amos
McLendon, Brim, Brooks, Pierce & Daniels
Attorneys at Law
P. O. Drawer U
Greensboro, North Carolina 27402
Appearing for:
Piedmont Natural Gas Company
Pennsylvania & Southern Gas Company
United Cities Gas Company

F. Kent Burns
Boyce, Mitchell, Burns & Smith
Attorneys at Law
Box 1406, Raleigh, North Carolina 27602
Appearing for:
Public Service Company of North Carolina, Inc.

George W. Ferguson, Jr.
Attorney at Law
Duke Power Company
P. O. Box 2178, Charlotte, North Carolina
Appearing for: Duke Power Company

Thomas E. Capps
Attorney at Law
336 Fayetteville Street
Raleigh, North Carolina
Appearing for: Carolina Power & Light Company

Odes L. Stroupe
Joyner & Howison
Attorneys at Law
Box 109, Raleigh, North Carolina
Appearing for:
Virginia Electric & Power Company

Guy T. Tripp, III
Hunton, Williams, Gay & Gibson
Attorneys at Law
P. O. Box 1535, Richmond, Virginia
Appearing for:
Virginia Electric & Power Company

Donald E. Strickland
Attorney at Law
Southern Bell Telephone & Telegraph Company
1245 Hurt Building
Atlanta, Georgia
Appearing for:
Southern Bell Telephone & Telegraph Company

For the Commission Staff:

Edward B. Hipp
Commission Attorney
P. O. Box 991, Raleigh, North Carolina 27602

William E. Anderson
Assistant Commission Attorney
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: By Order of March 26, 1971, the Commission instituted this general investigation and rule-making proceeding and ordered that all electric, telephone, gas, water and sewer public utilities holding franchises under the North Carolina Public Utilities Act are parties-respondents to the proceeding. On April 25, 1972, the Commission issued its Interim Order proposing Uniform Billing Procedure Rule R12-9 as cited therein, and on July 31, 1972, held a public hearing on that proposed rule.

During the course of this investigation a voluminous record has been made of exhibits indicating the various utilities practices relating to due and payable periods, issuing delinquent notices and disconnection or cut-off notices and the application of late payments rate differentials; two public hearings have been held in the docket and parties of record, including both utilities and consumers, have made statements, offered proposals, lodged objections to the proposed Rule R12-9 as initially proposed, and filed briefs.

During the course of the investigation Duke Power Company proposed certain changes in its own filed tariffs, wherein the amount billed for electric service was deemed to be a net rate, applicable only in case a bill was paid on or before the 15th day (with a gross rate equal to net plus 5% applicable on all bills paid after said day); Duke proposed a change from fifteen to twenty-five days.

Pursuant to the initial public hearing in this matter held on January 18, 1972, the Commission issued its said Interim Order in which it ruled that a late payment differential of 5% or more per month is in the nature of a penalty, that the charge is excessive and therefore discriminatory and ordered that during the pendency of this docket and until such time as a final rule is adopted by the Commission the various utility companies making such a charge were to cease and desist from charging any late payment penalty on bills to retail customers in North Carolina.

During the pendency of this proceeding both Duke Power Company and Carolina Power & Light Company, which are the two largest public utilities operating within this state utilizing such due and payable periods (initially 15 and 10 days, respectively, for residential customers) devised procedures by which the due and payable periods could be extended for the convenience of their customers.

In its Interim Orders of April 25 and April 28, 1972, the Commission ordered that the proposed rule would be adopted and promulgated effective July 1, 1972, unless formal objections and requests for public hearing were received by May 15, 1972.

By Order of June 8, 1972, the Commission acknowledged the filing of various comments, objections and inquiries and requests for hearing, including motions to intervene filed by the North Carolina Consumers Council, Inc., and by the Forsyth County Legal Aid Society on behalf of Mrs. Mattie Lee Clark. The matter came on for resumed hearing on July 31, 1972, and the parties were given an opportunity thereafter to file briefs.

Upon consideration of the record herein the Commission makes the following

FINDINGS OF FACT

1. That the diversity of practices heretofore employed by the various public utility firms doing business in North Carolina has resulted from historical development within the various companies such that the utilities have developed their own procedures internally without having given particular attention to methods employed by other utilities, except in the telephone industry where substantial uniformity of billing procedures and tariff filings has already been devised within the industry.

2. That the public interest requires the elimination of confusing and misleading billing procedures and tariff provisions establishing such procedures.

3. That the finance or late payment increment of a rate charged by a public utility to its North Carolina retail customers is a rate or charge subject to the jurisdiction of this Commission under G.S. 62-130 through 62-140.

4. That the practice of charging a late payment differential to residential customers and not to other classes of customers is unreasonably discriminatory under G.S. 62-140.

5. That the disparity of tariff provisions reflecting different payment periods for different classes of customers has not been supported by substantial evidence and said tariff provisions are therefore in that regard unreasonably discriminatory under G.S. 62-140.

6. That the late payment charges heretofore levied in the amounts of 5% or 10% per month are misleading, unreasonable and discriminatory under G.S. 62-140.

7. That as an alternative to the threat and execution of disconnection, a reasonable finance or service charge is an inducement for prompt payment of bills.

8. That a utility will have provided service to its customers on a credit basis, at the time the customer is billed, for approximately thirty days; that a reasonable additional time, however, should be available to the customers to make payment so that he can reasonably make such payment before the utility initiates disconnect procedures or levies a finance or service charge.

9. That a period of 10 days from the billing date after which consumer's service may be disconnected for non-payment is not a reasonable period of time in which to make payment, in view of the serious consequences of untimely payment resulting from the right to initiate the disconnect procedure.

10. That there are interest, finance and service costs directly attributable to those customers who delay payment of utility bills beyond the time during which the majority of customers pay such bills, and beyond the billing cycles reasonably required by the utilities' bookkeeping and billing procedures.

11. That the charging of an interest, finance or service charge by a public utility whose books and billing procedures are set up in such manner as to make such a charge feasible is a just and reasonable means of attempting to recoup a portion of those costs attributable to said customers.

12. That the new, proposed Rule R12-9 incorporated herein by reference will, by eliminating much of the confusion and diversity of billing practices, be in the public interest.

Whereupon, the Commission reaches the following

CONCLUSIONS

On September 15, 1972, Carolina Power & Light Company filed an affidavit and request for corrections of the transcript of the testimony of Mr. J. V. Henderson, and served copies of said affidavit and request on parties who appeared at the July 31, 1972, hearing. No objections having been filed, and good cause having been shown, the Commission concludes that said corrections should be allowed.

The Commission has noted that municipalities may, by virtue of an express legislative grant of authority in G.S. 160A-314, establish due and payable period of ten (10) days

and may apply such interest charges or penalties as they might establish. The Commission concludes, however, that the regulated public utilities may not apply such charges as are herein found unjust and unreasonable.

In the Interim Order proposing a Uniform Billing Procedure, the Commission recited that it is "of the opinion that the various utility firms should have available to them some option for encouraging prompt payment and that therefore some reasonable finance or late payment charge may be employed where needed" and the resumed hearing pursuant to that Interim Order involved considerations of the amount of such charge and the means of its application. The Commission has concluded that the following Rule setting a ceiling on any such charge and devising a uniform method of application, should be adopted, as N.C.U.C. Rule R12-9:

(a) Declaration of policy. No "penalties", "discounts" or "net-and-gross" rate differentials shall be imposed upon North Carolina consumers served by public utilities subject to the jurisdiction of this Commission, for the reason that those rate differentials are confusing and misleading, and the monthly rates of 5% or 10% heretofore charged are arbitrary and unreasonable. This Commission recognizes, however, that there are interest, finance, or service costs directly attributable to customers who excessively delay payment of utility bills, and considers that it is appropriate for a utility to attempt to recoup a portion of those costs by applying such interest, finance or service charges as may be reasonable and lawful.

(b) Billing date. All bills for utility services are due and payable as of the billing date, or if not received by said billing date, upon receipt. The billing date shall be printed on the bill and the bill shall be placed, postage prepaid, in the U. S. Mail (or if the mail is not used, delivered to the customer) prior to or no later than the billing date.

(c) Past due or delinquent bills. The past due or delinquent date is the first date upon which the utility may initiate disconnect proceedings under N.C.U.C. Rule R12-8 and the date from which interest shall be computed in the event the utility applies an interest, finance or service charge. The past due or delinquent date shall be disclosed on the bill and shall be not less than fifteen (15) days after the billing date. In the event the utility fails to place the bill in the mail (or deliver it as in paragraph (b) above) prior to or on said billing date, the consumer shall have the right to require that the utility adjust the billing date by the number of days by which the postmark (or delivery as in paragraph (b) above) exceeds the original billing date.

(d) Finance charges. No interest, finance, or service charge for the extension of credit shall be

imposed upon the consumer or creditor if the account is paid within twenty-five (25) days from the billing date. No utility shall apply a late payment, interest, or finance charge to the balance in arrears at a rate of more than 1% per month. The bill shall clearly state the interest rate. All utilities applying an interest, finance or service charge must file tariff provisions to that effect and must apply said finance charge on a uniform basis, applicable to all customers and all classes of service.

(e) Acceleration of in rare cases with good cause. If a utility with good cause determines that the credit rating of a customer has been jeopardized by unusually extensive use of a metered or toll service, such as long distance telephone service, or by other factors which indicate the likelihood that the customer cannot pay his outstanding bill, and for which the customer's deposit, if there be one, does not furnish adequate security, the utility may accelerate the past due or delinquent date and proceed with disconnect procedures under N.C.U.C. Rule R12-8; provided, however, that it must state to the customer in writing its cause for so doing and file a copy of said statement with the Commission.

The Commission concludes that the Rule adopted herein will be fair to the consumers and to the public utilities. Rule R12-9 will apply to all equally and allow no charge to be made to certain classes of customers only. Residential customers and other customers are to be treated the same. The billing date established in Paragraph (b) provides a precise method of establishing the date upon which the bill is "rendered" to the customer and provides a firm basis for establishing the past due or delinquent date, and for establishing the twenty-fifth day after which interest may be charged.

The Commission concludes that the Rule R12-9 adopted herein is sufficiently within the parameters of the hearing held on July 31, 1972, and the notice thereof given by virtue of the orders of April 25, 1972, and April 28, 1972, the June 8, 1972, order stating the effective date of the initially proposed Rule R12-9 and the hearing notice issued on July 25, 1972, that the matter may now be concluded and a Rule adopted herein by issuance of a final order of this Commission, without further publication of notice and without inviting another round of comments, statements and counter-proposals.

The Commission recognizes, however, that with some four hundred parties of record in this proceeding, some party may well properly have further evidence or argument which the Commission should consider, and the Commission notes, in this context, that any party has the right to move that the Commission postpone the effective date of any action taken by it, rescind, alter or amend a prior order or decision, and to show good cause therefor. It appears to the

Commission, however, that procedural due process will be observed sufficiently well in this rule-making proceeding without further interim action being necessary prior to the issuance of said final order.

IT IS, THEREFORE, ORDERED:

1. That N.C.U.C. Rule R12-9 as set out herein be, and is hereby, adopted to be promulgated as a part of the Rules and Regulations of this Commission, effective January 1, 1973.

2. That the various electric, telephone, gas, water and sewer utilities be, and are hereby, directed to file appropriate tariff revisions at the earliest possible time, but in any event not later than February 1, 1973.

3. That the cease and desist portion of the Interim Orders issued April 25, 1972, and April 28, 1972, remain in effect until the Rule herein adopted becomes effective on January 1, 1973.

4. That the various electric, telephone, gas, water and sewer utilities shall make necessary revisions in their billing statements by March 1, 1973; provided, however, upon a showing of good cause, a reasonable grace period for revising the billing statements to comply with paragraphs (b) and (c) of Rule R12-9 will be considered upon request on a case-by-case basis.

ISSUED BY ORDER OF THE COMMISSION.

This 24th day of November, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 47

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Transportation of Property for or Under Control of the United States Government, the State of North Carolina, or any Political Subdivision Thereof, or any Board, Department or Commission of the State, or any Institution Owned and Supported by the State, by Motor Carriers for Hire, Formerly Exempt Under G.S. 62-260 (a) (1), Repealed by Chapter 856 of the Session Laws of 1971.) ORDER

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on February 4, 1972.

BEFORE: Chairman Harry T. Westcott, and Commissioners McDevitt, Wooten, Rhyne and Wells

APPEARANCES:

For the Petitioner:

Peter Q. Nyce, Jr.
Department of the Army
Regulatory Law Office, O.J.A.G.
Washington, D. C. 20310
For: Department of Defense

For the Respondent:

Thomas R. Eller, Jr.
Cansler, Lockhart & Eller, P. A.
1010 North Carolina National Bank Building
Charlotte, North Carolina 28202
For: North Carolina Movers & Warehousemen's Association

For the Commission Staff:

Edward B. Hipp
Commission Attorney
217 Ruffin Building
Raleigh, North Carolina
For: North Carolina Utilities Commission

BY THE COMMISSION: This proceeding arises from the Act of the General Assembly of North Carolina in Chapter 856 of the Session Laws of 1971 in repealing the statutory exemptions theretofore available for transportation for and under the control of various governmental units. Prior to the Act, the exemption read as follows:

"§62-260. Exemptions from regulations.-(a) Nothing in this chapter shall be construed to include persons and vehicles engaged in one or more of the following services by motor vehicle if not engaged at the time in the transportation of other passengers or other property by motor vehicle for compensation:

1. Transportation of passengers or property for or under the control of the United States government, or the State of North Carolina, or any political subdivision thereof, or any board, department or commission of the State, or any institution owned and supported by the State;"

Chapter 856 of the Session Laws of 1971 repealed the above exemptions as follows:

"CHAPTER 856

AN ACT TO REPEAL THE EXEMPTION OF GOVERNMENTAL VEHICLES IN MOTOR CARRIER REGULATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 62-260 (a) (1) is hereby repealed.

Section 2. This act shall become effective upon ratification.

In the General Assembly read three times and ratified, this the 14th day of July, 1971."

Pursuant to this repeal of the former exemption of transportation for or under the control of said governmental units, the Commission issued a General Order on December 2, 1971, providing that effective on December 15, 1971, the Commission would institute regulation of motor carriers transporting shipments for or under the control of said government units and would enforce the requirement that such carriers conform with their tariffs on file with the Commission and transport such shipments within the scope of their certificate or franchise rights.

On December 13, 1971, the Secretary of the Army filed a petition in this proceeding contending that transportation for or under the control of the United States Government was immune from regulation by the State of North Carolina through the Public Utilities Act and the North Carolina Utilities Commission, on the basis of the immunity provided for the Federal government in the U. S. Constitution from interference by the states, and upon certain acts of Congress establishing the procurement practices of Federal Agencies in securing goods and services, including transportation service.

Following the filing of the petition by the Army in this proceeding, the Commission issued its general order on December 13, 1971, suspending the effect of the December 2, 1971, Order as to transportation for or under the control of the U. S. Government until hearing could be held on the petition of the Secretary of the Army and until an Order could be issued determining the Commission's action regarding the application of Commission regulation to motor carriers handling shipments for or under the control of the U. S. Government.

Pursuant to the Order of December 13, 1971, public hearing was held before the full Commission on February 4, 1972, and appearance made by Counsel for the U. S. Department of Defense, for the North Carolina Movers and Warehousemen's Association, and for the Staff of the North Carolina Utilities Commission.

The United States Department of Defense offered testimony of two witnesses as follows: Mr. William Baude, Deputy Director for Personal Property, Military Traffic Management and Terminal Service, Washington, D. C., who described the procurement policies of the United States Government, including reference to statutes covering procurement of transportation, and described the policy of the United States Department of Defense to use duly regulated motor carriers certificated by the State Commission, and the practice of securing special rates under Section 22 of the Interstate Commerce Act for interstate freight.

Mrs. M. P. Truelove, Assistant Transportation Officer at Fort Bragg, North Carolina, testified in regard to the transportation practice of the Army at Fort Bragg and the handling of Federal Government transportation service at Fort Bragg, which fell under the responsibility of her office. Both Army witnesses stated that the Army did not solicit rates below those approved by the Commission but contended that the Army had a constitutional right to do so if they so elected. Mrs. Truelove testified that all of the general commodities and petroleum products were moved on tariff rates regulated by the Utilities Commission, but on household goods there was one motor carrier who was given first opportunity to handle such shipments because it filed rates below the tariff approved by the North Carolina Utilities Commission as just and reasonable rate.

Mr. Baude testified that the Army procurement policy required that it consider quality of service and did not require that the Army obtain the lowest possible price without regard to whether it is compensatory or fair to the carrier, and that the Army found it advantageous to use only motor carriers having Certificates of Public Convenience and Necessity from the Utilities Commission.

Mrs. Truelove testified that the Army did not solicit rates lower than those approved by the Commission, but accepted the lower rates of the one household goods carrier when tendered; and that upon tender of a lower rate the carrier was offered all of the movement of household goods at that rate, so long as he had capacity to handle the shipments, and those that said carrier could not handle were given to the next carrier on a roster of carriers maintained by the Army at the published tariff rate; and that the Army did not use any carrier who does not hold a Certificate of Public Convenience and Necessity from the North Carolina Utilities Commission for shipments in intrastate commerce in North Carolina.

The North Carolina Movers and Warehousemen's Association called as witness Mr. Harold Parks, Transportation Officer of the Seymour Johnson Air Force Installation at Goldsboro, and Mr. Al Gray, Transportation Officer of the Cherry Point Marine Installation at Jacksonville as witnesses, both being present in the room. Upon objection by the counsel for the Secretary of the Army to the calling of these witnesses by

the North Carolina Movers and Warehousemen's Association without subpoenas, they were excused by the North Carolina Movers and Warehousemen's Association from testifying.

Based upon the record herein, the act of the North Carolina General Assembly in repealing G.S. 62-260(a)(1), and the evidence of record in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. The Petitioner, Secretary of the Army, is a proper party to this proceeding and is properly before the Commission on his Petition filed herein and his appearance through counsel and presentation of authorized employees of the Army as witnesses in this proceeding.

2. The North Carolina Movers and Warehousemen's Association is a proper party to this proceeding and is properly before the Commission based upon its intervention and the appearance through counsel and participation in examination of witnesses.

3. The Commission has jurisdiction over transportation of property in intrastate commerce in North Carolina pursuant to the laws of the State of North Carolina, and is charged with the duty and responsibility under the laws of the State of North Carolina to issue Certificates of Public Convenience and Necessity to duly authorized motor carriers in intrastate commerce and to regulate the safety of operations and the rates for services of State carriers in intrastate commerce in North Carolina.

4. The Department of Defense, through the Secretaries of the Army, Navy and Air Force, maintains installations in North Carolina, and procures transportation services from motor carriers in intrastate commerce in North Carolina for transportation of passengers and freight, including general commodities, petroleum and petroleum products, and household goods, as defined in the Commission's rules for transporting of household goods in North Carolina. The military installations of the Department of Defense utilize other public utility services regulated by the North Carolina Utilities Commission, including electric, telephone and natural gas service.

5. The Department of Defense utilizes the benefits of regulation of motor carriers' service by the Commission in relying upon the Certificate of Public Convenience and Necessity issued in North Carolina to establish the ability and fitness of the motor carriers, as well as Commission regulation of other public utility services, including electric, telephone and natural gas, and utilizes the benefits of Utilities Commission regulation of quality of service, safety of service, fitness and ability to serve, and at rates fixed for such service under statutory ratemaking proceedings.

6. That the Department of Defense utilizes the tariff of rates fixed by the North Carolina Utilities Commission for the transportation of passengers, general commodities, petroleum and petroleum products, and for electric, telephone and natural gas services, and has adhered to and never objected to said rates provided to the Department of Defense.

7. That the Fort Bragg unit of the Department of Defense has demonstrated a practice of moving household goods for personnel for and under control of the Department of the Army by maintaining a roster of regulated motor carriers and has adhered to the approved tariff fixed by the North Carolina Utilities Commission for such service and does not seek reduced rates, but in one instance where a lower price was submitted by a carrier on such roster, it has used the lower price.

8. That one carrier on the Fort Bragg roster of regulated carriers has submitted a price lower than the rates approved as just and reasonable by the Utilities Commission and, as a result of that filing, the Fort Bragg unit of the Department of Defense tenders all moving of household goods to said carrier, to-wit, Tryon Moving and Storage Company, as long as said carrier has capacity for such shipments, and when the carrier does not have the capacity to handle all of the shipments tendered, the Fort Bragg unit of the Department of Defense then gives the shipments to the next motor carrier on the roster, at the rates filed, approved and fixed by the Utilities Commission.

9. The rates which the said Tryon Moving and Storage Company submits to the Fort Bragg unit of the Department of Defense are lower than the rates the said carrier charges to members of the Army in transporting their own household goods at their own expense and are lower than rates charged by said carrier when moving household goods of citizens of the United States residing in North Carolina, in intrastate commerce in North Carolina, and are lower than the rates fixed by the North Carolina Utilities Commission as being just and reasonable, and said rate submitted to the Fort Bragg unit of the Department of the Army is a preferential rate within the meaning of the common law of the United States and the State of North Carolina for determining lawful utility rates, and is a discrimination practiced by said carrier against persons similarly situated.

10. That the Secretary of Defense has adopted a general practice of procuring utility services in North Carolina at fixed and non-preferential rates under the same tariff of rates fixed for other parties and persons similarly situated in the State of North Carolina, and has observed said policy for the procurement of said services in general, including electric, telephone, natural gas, general commodities, and petroleum and petroleum products, and the Fort Bragg unit has accepted from Tryon Moving and Storage Company a preferential and discriminatory rate for household goods in

exception to the general practice of the Secretary of Defense.

11. That Tryon Moving and Storage Company has been suspended by the Fort Bragg transportation unit for infractions for inferior service, and is now reinstated after the suspension period.

CONCLUSIONS

1. The North Carolina Utilities Commission has the responsibility of regulating rates, service and safety of motor carriers hauling regulated commodities for hire in intrastate commerce in the State of North Carolina, as well as the responsibility of regulating rates, service and safety of basic public utilities, including electric, water, telephone, gas, sewer and rail service for compensation for the public.

2. The prevailing principal of public utility rates under the North Carolina Public Utilities Act and under the common law in effect in North Carolina is that utility rates shall be non-preferential and non-discriminatory, and that all persons similarly situated shall bear the same proportionate share of the cost of providing utility service, based upon the ratemaking formula of the North Carolina Public Utilities Act requiring that the Commission fix rates of public utilities that are just and reasonable to the public and to the utility, and that the rates provide no more than a reasonable rate of return to the public utility for the property devoted to the public utility service in North Carolina. In the case of motor carriers, the ratemaking formula is based on the operating ratio of the motor carriers.

3. The Department of Defense observes the uniform rates fixed for public utilities in North Carolina in all cases where the Department of Defense is similarly situated with other members of the using and consuming public utilizing utility service, except in the one case at issue in this proceeding, to-wit, the movement of household goods in intrastate commerce in North Carolina by Tryon Moving and Storage Company.

4. The rates provided to the Department of Defense by Tryon Moving and Storage Company in this proceeding are the only rates which deviate from rates found to be just and reasonable, and to the extent of such deviation, these rates are preferential, and discriminate against members of the using and consuming public similarly situated to the Department of Defense.

5. In the shipments at issue in this proceeding, the Department of Defense is securing the transportation of property belonging to soldiers or civilian personnel employed by the Department of Defense and the property does not belong to the Department of Defense. The Department of

Defense is utilizing a preferential rate and is seeking immunity from regulation for such shipments, and thus is utilizing unregulated service for the transportation of household goods of soldiers and civilians, and is utilizing in this proceeding the service of Tryon Moving and Storage Company which has heretofore been suspended by the Department of Defense for infractions of the regulations for inferior service on shipments of members of the Armed Forces and civilians employed by the Department of Defense.

6. The movement of household goods at issue in this proceeding are ordinary movements of household goods belonging to members of the Armed Forces or civilians employed by the Department of Defense, on an individual household movement basis, and do not involve any mass shipment or large shipment of household goods or any other goods moved in large quantities in the military or government service.

7. The household goods shipped here are moved in the same way as household goods moved for citizens of the United States and the State of North Carolina and for employees of the Department of Defense and members of the Armed Forces when moving on their own account, and there is no distinction of the method and form of the service rendered for the Department of Defense and that rendered for citizens of the United States and military personnel for shipments of household goods on their own account.

8. That the Secretary of the Army has failed to show any material adverse effect upon the Department of Defense from the regulation by the Utilities Commission of motor carriers for compensation in intrastate commerce in North Carolina. The Secretary of Defense witnesses testified that they presently observe the published rates fixed by the Utilities Commission for general commodities and petroleum products, which cover all shipments of the Department of Defense in intrastate commerce in North Carolina, except for shipments of household goods of military personnel or civilian employees of the Department of Defense which are moved for or under control of the Department of Defense. These shipments are not distinguished in any way from the household goods of military personnel and civilian employees of the Department of Defense when they are moved by such military personnel and civilian employees at their own expense.

9. This case does not present the question as to what might be the result if the Department of Defense should assert an immunity from regulation to the extent that it would seek to secure transportation from motor carriers who are not regulated motor carriers hauling for other citizens of the United States and the State of North Carolina in intrastate commerce in North Carolina. This record and the Petition herein and this case presents only the question of whether the Utilities Commission and the State of North Carolina has authority to apply equal laws and regulations

and tariffs to motor common carriers in intrastate commerce, to all shipments transported by such carriers.

10. The Department of Defense has not sought in this case to secure complete immunity from regulation by the procurement of transportation from unregulated carriers. To the contrary, the Department of Defense has, in fact, utilized the regulatory services of the North Carolina Utilities Commission in certifying the fitness and ability of the motor carriers, by the reliance on Certificates of Public Convenience and Necessity as a requirement and prerequisite for utilizing the service of such carriers, and seeks to accept the benefits of regulation as to fitness, ability and safety of service, yet reject the concomitant obligation that all shippers utilizing public utility service shall share equally in the cost of providing such service. The one household goods carrier that the Department of Defense has utilized here, at preferential rates below the filed rates, has been suspended by the Department of Defense for providing inferior service. This evidence alone should demonstrate that the rates fixed and approved by the Utilities Commission are necessary for the performance of adequate service, with due regard for service standards and for handling the property of the household moved in a careful manner. The assertion by the Department of Defense in this proceeding of the right of said carrier to continue to move soldiers' belongings under the control of the Department of Defense at preferential rates and discriminatory rates is not equivalent to the assertion by the Department of Defense to any right to procure transportation completely free of control of the State of North Carolina and its agent, the North Carolina Utilities Commission. What the Department of Defense is seeking here is a common carrier duly certified by the Utilities Commission as to fitness and ability and safety of operation who is obtaining the costs for said safe and able operation from citizens of the United States and the State of North Carolina on rates fixed by the Utilities Commission, and yet the Department of Defense is seeking an advantage over other shippers who are supporting that service. This seeking of such advantage over other shippers is not the principal which is supported by other cases in which the Department of Defense procures transportation from dedicated or exempt carriers free of any regulation, where the Department of Defense would be in a position of providing the full support for the cost of said service, without subsidy from other shippers served by such carriers on regulated rates.

11. This proceeding does not present a case in which the North Carolina Utilities Commission and the State of North Carolina are seeking to interfere with procurement of transportation by the Department of Defense from fully exempt motor carriers. This case presents only the case where the State of North Carolina and the North Carolina Utilities Commission is attempting to see that all persons acting as motor common carriers certified as common carriers in intrastate commerce in North Carolina, who hold

themselves out to the public in North Carolina, do not charge preferential rates to favored customers at the expense of the other customers thus discriminated against. This case does not present the question as to whether the Department of Defense is free to utilize totally exempt service if it so elects, as it has elected to use motor carriers that are certified and regulated by the North Carolina Utilities Commission, and has not established any adverse effect from the North Carolina regulation, and it has received the equal treatment which it has elected by utilizing only the services of carriers so supervised and regulated. The witnesses of the Department of Defense testified that the Department of Defense saves money in relying upon a Certificate of the Utilities Commission and the regulation and inspection of the Utilities Commission, in avoiding its own inspection of motor transportation which it might procure. The enjoyment of this saving and advantage compensates the Department of Defense for its voluntary acceptance of published uniform non-discriminatory, non-preferential rates, by certified safe and able carriers, at the same rate paid by everyone else who is similarly situated. If the Department of Defense should contend that its methods of shipment allow for transportation at lower cost than the cost for shipment of other shippers, they would have a right to seek, and the motor carriers seeking to move freight at such lower cost, would have a right to file such rates for investigation and approval, and upon establishing such different circumstances, the North Carolina Public Utilities Act and the rules of the North Carolina Utilities Commission will provide them the relief they want, but have not sought thus far in this proceeding. They have not exhausted their administrative remedies for any advantages which they might contend are present due to any lower cost in their methods of handling shipments.

12. The Utilities Commission is charged with the responsibility to see that all regulated motor carriers provide adequate service for all regulated property transported for hire in intrastate commerce in North Carolina. When soldiers and civilians whose household belongings are moved by and under control of the U. S. Army and the Department of Defense see that the motor carrier handling their goods has painted on its door the Certificate Number of the North Carolina Utilities Commission, they have the right to expect that such shipments will be handled safely and with due care for their protection and that they will have grounds for complaint and a forum to complain to if damage is done. The asserted immunity of the Department of Defense should not be allowed to thwart this right and expectation of the soldiers and civilians whose property is the subject of the transportation.

IT IS, THEREFORE, ORDERED as follows:

1. That the repeal of G.S. 62-260 (a) (1), by Chapter 856 of the Session Laws of North Carolina, has removed the

statutory exemption from regulation under the Public Utilities Act of transportation of freight for and under control of the U. S. Government, the State of North Carolina, or any political subdivision thereof, or any board, department or commission of the State, or any institution owned and supported by the State.

2. That the Petition and evidence in this proceeding has failed to demonstrate any prejudice or adverse effect from regulation of regulated motor carriers who also engage in transportation for and under control of the U.S. Government, and the Commission finds that motor carriers for compensation transporting such freight in North Carolina in intrastate commerce are subject to the provisions of the North Carolina Public Utilities Act.

3. That motor carriers of freight for compensation in intrastate commerce in North Carolina shall provide service at non-discriminatory, non-preferential rates as filed by said carriers on regulated commodities with the North Carolina Utilities Commission, and any transportation for rates other than those on file with the Commission, which is not specifically exempt by law or by rule of the Utilities Commission, shall be a violation of the North Carolina Public Utilities Act.

4. That Transportation by motor carriers at non-preferential and non-discriminatory rates shall be the same for all shippers similarly situated, and no deviations or variations in rates for shippers contended to be in separate or different categories shall be charged, except after filing and approval by the Utilities Commission.

5. That the Order of the Commission in this proceeding entered on December 13, 1971, suspending the effect of the Order of the Commission of December 2, 1971, is hereby terminated by the filing of this Order, as provided in said Order of December 13, 1971, and the temporary suspension of said Order of December 2, 1971, is hereby terminated.

6. That the Order issued in this Docket on December 2, 1971, for the regulation of motor carriers in North Carolina who transport freight which was heretofore exempt under G.S. 260(a)(1), which was repealed by Chapter 856 of the Session Laws of 1971, be, and the same is hereby reinstated with full force and effect, to become effective on May 25, 1972.

ISSUED BY ORDER OF THE COMMISSION.

This 23rd day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 47

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Transportation of Property for or Under Control of the United States Government, the State of North Carolina, or any Political Subdivision Thereof, or any Board, Department or Commission of the State, or any Institution Owned and Supported by the State, by Motor Carriers for Hire, Formerly Exempt Under G.S. 62-260(a) (1), Repealed by Chapter 856 of the Session Laws of 1971	)	ORDER DENYING PETITION TO POSTPONE EFFECTIVE DATE

Upon consideration of the record herein and the Petition from the United States Department of Defense dated May 24, 1972, and received herein on May 25, 1972, for a postponement of the effective date of the Order of the Commission entered herein on May 23, 1972, to become effective on May 25, 1972, and the Commission being of the opinion that good cause is not shown in said Petition for the postponement of the effective date of the Order entered herein on May 23, 1972,

IT IS, THEREFORE, ORDERED that the Petition of the Department of Defense dated May 24, 1972, and received by the Commission on May 25, 1972, for a postponement of the effective date of the Order of the Commission entered in this proceeding on May 23, 1972, is hereby denied.

ISSUED BY ORDER OF THE COMMISSION.

This 25th day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 47

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Transportation of Property for or Under Control of the United States Government, the State of North Carolina, or any Political Subdivision Thereof, or any Board, Department or Commission of the State, or any Institution Owned and Supported by the State, by Motor Carriers for Hire, Formerly Exempt Under G.S. 62-260 (a) (1), Repealed by Chapter 856 of the Session Laws of 1971.	)	NOTICE OF FEDERAL RESTRAINING ORDER

Notice is hereby given to all motor common carriers engaged in transportation for or under control of the United States Government and to all parties of interest in the above proceeding, that on June 19, 1972, a Federal District Court Judge for the Eastern District of North Carolina issued a Temporary Restraining Order in a proceeding entitled "United States of America v. North Carolina Utilities Commission and Harry T. Westcott, John McDevitt, Marvin Wooten, Miles Rhyne and Hugh Wells, Commissioners," Civil No. 3061, ordering the North Carolina Utilities Commission not to enforce the provisions of its Order entered herein on December 2, 1971, regulating motor carriers engaged in transportation for and under control of the United States Government, until final determination of said proceeding in the Federal District Court.

This is to notify all parties of interest that the North Carolina Utilities Commission will not enforce the provisions of said Order entered herein on December 2, 1971, regulating motor carriers engaged in transportation for or under control of the United States Government during the period that said Temporary Restraining Order is in effect, except as to matters of safety and insurance which are not involved in said Order.

This notice is without waiver of any defenses entered by the Utilities Commission in the said proceeding in the Federal District Court and its motions and pleadings in said proceeding to secure termination of said Temporary Restraining Order issued by the Federal District Court.

ISSUED BY ORDER OF THE COMMISSION.

This 10th day of July, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. M-100, SUB 48

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Adoption of Rules and Regulations for Compliance with the Economic Stabilization Act of 1970, as amended, and the Criteria and Regulations of the Price Commission, 6 CFR §300.16a	)	NOTICE OF CERTIFICATION BY PRICE COMMISSION

On June 26, 1972, the North Carolina Utilities Commission issued its Amended Order Adopting Regulations for Compliance with the United States Economic Stabilization Act of 1970, as amended, including the adoption of a new Chapter 13 of the Rules and Regulations of the Utilities Commission entitled "Price Commission" in which the Utilities

Commission established criteria for determining all applications by public utilities for rate increases in accordance with the standards for State certification established by the Federal Price Commission in its Regulations published in 6 CFR §300.16a. The said Amended Order effective on June 26, 1972, contained a provision in said new Chapter 13 that said Commission Rules on Price Commission Regulations would go into effect upon certification by the Price Commission that said standards and criteria comply with the Economic Stabilization Program.

On June 26, 1972, the Utilities Commission filed said Amended Order Adopting Regulations for Compliance with the Economic Stabilization Act with the Federal Price Commission, together with its transmittal application for certification of the North Carolina Utilities Commission under said §300.16a(d) as a State Regulatory Commission that had established Rules for considering price increases under the standards and criteria established under the Economic Stabilization Act.

On July 13, 1972, the Federal Price Commission issued its Order reciting that the North Carolina Utilities Commission had filed its Rules adopted for the purpose of implementing the Economic Stabilization Program and its request for Certificate of Compliance under 6 CFR §300.16a(d), and ordering that the North Carolina Utilities Commission be certificated as follows:

"It is therefore ordered: That the NORTH CAROLINA UTIL. COMM. is hereby Certificated as being in compliance with the Economic Stabilization Program based upon the submission described above filed on June 26, 1972.

"July 13, 1972 s/ C. J. Grayson, Jr.
Date C. Jackson Grayson, Jr.
Chairman"

Based upon the above certification, all public utilities regulated by the North Carolina Utilities Commission are hereby notified that the Rules of the Utilities Commission, as amended by Order issued on June 26, 1972, to include a new Chapter 13 entitled "Price Commission" establishing standards and criteria for application to rate increases filed by regulated public utilities in North Carolina, are in full force and effect and are applicable to all utility rate increases pending before the Utilities Commission on July 13, 1972, on the date of said certification.

ISSUED BY ORDER OF THE COMMISSION.

This 20th day of July, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. 4066-Z

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Classification of Transportation of Wood Chips as a Native Wood Lumber Product.) ADMINISTRATIVE ORDER

This matter is before the Commission for an interpretation of Rule R2-52 (3) and the transportation of wood chips thereunder as an exempt commodity.

From a review and study of the matter, it appears to the Commission that wood chips are a native wood lumber product of the nature contemplated in G.S. 62-260(14) and Rule R2-52; and that wood chips should be included in the identification of lumber products under said rule.

IT IS, THEREFORE, ORDERED:

That Subsection (3) of Rule R2-52 be amended to read as follows:

"(3) Lumber or lumber products, native wood, in truckloads, viz: Lumber, rough or dressed, ceiling, flooring, sheathing or weatherboarding and wood chips."

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. 4066AA

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Exemption from the Provisions of the Public Utilities Act for the Transportation by Motor Carriers of Foods Donated by the U. S. Department of Agriculture to the State of North Carolina, in Shipments from State Warehouses to Eligible Local Agencies and Governmental Units by Motor Carriers) ORDER GRANTING EXEMPTION

BY THE COMMISSION: This matter is before the Commission upon the written request of the North Carolina Department of Agriculture, treated herein as a motion, for exemption from regulation of transportation by motor carriers of foods donated by the U. S. Department of Agriculture to the State of North Carolina for distribution to county and local units, such as boards of county commissioners, public school

administrative units, charitable institutions and other eligible groups receiving shipments of donated foods under the U. S. Department of Agriculture donated food program. The motion of the North Carolina Department of Agriculture is for the Commission to declare said goods exempt from regulation under the provisions of G.S. 62-261(8), reading in part as follows:

"§62-261. Additional powers and duties of Commission applicable to motor vehicles. - The Commission is hereby vested with the following powers and duties:

"(8) To determine, upon its own motion, or upon motion by a motor carrier, or any other party in interest, whether the transportation of property in intrastate commerce performed by any motor carrier or class of motor carriers lawfully engaged in operation in this State is in fact of such nature, character, or quantity as not substantially to affect or impair uniform regulation by the Commission of transportation by motor carriers engaged in intrastate commerce. Upon so finding, the Commission shall issue a certificate of exemption to such motor carrier or class of motor carriers, which, during the period such certificate shall remain effective and unrevoked, shall exempt such carrier or class of motor carriers from compliance with the provisions of this article, and shall attach to such certificate such reasonable terms and conditions as the public interest may require. . . ."

Prior to the 1971 General Assembly, transportation of property by motor carriers for or under control of the State of North Carolina was exempt under G.S. 62-260(a)(1). By Chapter 856 of the Session Laws of 1971, the above exemption was repealed effective July 14, 1971. The motion of the North Carolina Department of Agriculture recites that the movements of such donated foods have taken place under special contractual arrangements for truck load shipments from 3 State warehouses receiving the donated foods in carload lots, with some less-than-truckload shipments via regular common carrier service, and in some instances by the recipient agency trucks.

Inasmuch as the movement of such donated foods has heretofore been conducted as an exempt movement under a statutory exemption, the continuation of such exemption by order under G.S. 62-261(8) would not appear to impair uniform regulations of transportation in intrastate commerce. The donated food program is of limited nature and is considered to be utilized primarily in school lunch programs and by charitable institutions outside of the normal channels of regulated commerce and is supported by the general public interest in providing public support for adequate food program for low income recipients of the donated food. The Commission takes notice of the statutes and regulations relating to the donated food program and considers that it is in the public interest to authorize continued transportation of such donated foods on the basis

most feasible and practical to the North Carolina Department of Agriculture in its capacity as distributing agency in the State of North Carolina, and to allow maximum utilization of such donated foods by the recipient agencies through the most expeditious and practical methods of distribution.

The Commission, being of the opinion that the motion of the North Carolina Department of Agriculture sets forth good cause for exemption of donated foods from regulation under G.S. 62-261(8) of the Public Utilities Act relating to transportation by motor carriers.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the transportation of foods donated by the U. S. Department of Agriculture to the State of North Carolina through the North Carolina Department of Agriculture, a distributive agent, for distribution to county and local units and charitable institutions eligible for receipt of such donated foods in various school lunch and welfare and low income food programs is hereby declared to be exempted from regulation from the Public Utilities Act in shipments from State distribution warehouses to the respective eligible county and local units and other eligible agencies and groups receiving shipments of such donated food from the State warehouses.

2. That the exemption herein authorized shall apply to all motor carriers having suitable equipment, including carriers that hold Certificates of Exemption under G.S. 62-260.

3. That this Order shall become effective immediately and shall remain in effect until vacated or modified by further Order of the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This 30th day of June, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-100, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Adoption of Standard Voltages and Allowable Deviations Therefrom. Revision of Rule R8-17	) ORDER ADOPTING REVISION OF RULE R8-17 STANDARD VOLTAGE

BY THE COMMISSION: A Further Notice of Rule Making Procedure was issued in this matter on March 17, 1972. An in-depth history and rationale for the revision of Rule

R8-17 was presented along with the proposed wording of Rule R8-17, and each electric supplier was given the opportunity to comment on the proposed Rule Revision by April 4, 1972.

Only one Objection and Comment was received. The North Carolina Electric Membership Corporation, for and on the behalf of its member systems, objected to the exclusion from the rule of the Range B Voltage Variation Allowance which it understood to be a part of the initial rule revision proposed in mid-1971.

Upon receipt of the Objection and Comment, the Commission Staff consulted with the N.C.E.M.C. attorneys and the Corporation's consulting engineer, Southern Engineers. The Commission has been informed that the primary reason for the Objection was a desire to assure that a system would not be in violation of the Commission's Rules and Regulations if inordinate load growth were to cause voltage variations slightly outside the ±5% range for periods of limited frequency and duration in limited areas. The desire was to effect an addition to the rule which would allow such variations to occur while the remedy was being effected.

An example of a situation which would take advantage of such an addition would be if a line upgrading were scheduled at some point in the near future, and an inordinate load growth occurred which occasionally caused the voltage in limited areas to vary slightly out of the normally allowable ±5% variation for short periods of time. The addition would indicate that such a situation would not be construed as a violation of the Commission's Rules and Regulations while a remedy was being properly planned and effected.

The Staff has proposed that the phrase "by conditions which are part of practical operations and are of limited extent, frequency and duration," be inserted in paragraph (e) of the March 1972 proposed Rule between the phrases "system operations," and "or by emergency operations..." Representatives of various electric suppliers were contacted by the Staff concerning the effects of the proposed addition. All suppliers contacted have indicated that there would be no objections to such an addition. The N.C.E.M.C. has indicated that such an addition was acceptable and it would withdraw its Objection.

The Commission is advised of the aforegoing and considers that such an addition is reasonable in that its purpose is to recognize practical operating conditions. The Commission wishes to point out that this addition and the existing modifying phrases are designed to recognize practical operating conditions and should not be construed as providing a crutch upon which to rest poor design or operating practices. The Commission wishes to acknowledge the spirit of cooperation shown by all parties during the course of the revision of Rule R8-17.

There being no other comments or objections, and the Commission considering that the revision of Rule R8-17 STANDARD VOLTAGES is just and reasonable and in the public interest,

IT IS, THEREFORE, ORDERED:

1. That the Proposed Amendment of Rule R8-17 STANDARD VOLTAGE, dated March 17, 1972, and issued in the Commission's Notice of Further Rule Making Procedure on that same date, be, and the same hereby is, adopted in its entirety, except

2. That the phrase "by conditions which are part of practical operations and are of limited extent, frequency, and duration" shall be inserted in paragraph (e) so that paragraph (e) shall in its entirety be:

"(e) Variations in voltage in excess of those specified caused by the addition of customer equipment without proper notification to the electric supplier, by the operation of customer's equipment, by the action of the elements, by infrequent and unavoidable fluctuations of short duration due to system operations, by conditions which are part of practical operations and are of limited extent, frequency, and duration, or by emergency operations shall not be construed a violation of this rule."

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of April, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-100, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Load Reductions by Electric Suppliers)	
During Times of Emergencies Caused by)	ORDER
Failures or Inadequacies in Bulk Power)	INSTITUTING NEW
Generation of Transmission Facilities)	COMMISSION RULE

BY THE COMMISSION: The marginal power supply situation of the summers of 1970 and 1971, resulting in voltage reductions in all or portions of the State at one time or another, and the predicted marginal power supply situation during 1972, has increased the Commission's concern and awareness of the problems associated with power load reductions during times of emergencies. The Commission is of the opinion that criteria for load reduction in case of

inadequate capacity or unanticipated emergencies should be established and should be available for public review.

The Commission Staff, at the direction of the Commission, completed an in-depth study of the procedures established by the major power suppliers operating in North Carolina for reduction of loads during emergencies. In general, the major suppliers have plans to follow a series of procedures during such critical loadings of the interconnected systems which would include voltage reduction routines, public appeal for voluntary curtailment of usage, planned load shedding and automatic low frequency relay load shedding. The severity of the problem dictates the sequence of the above procedures.

A proposed rule was prepared and served on all electric suppliers. Replies were received detailing comments on the proposed rule. The Commission Staff has met with various representatives of public electric utilities, electric membership corporations, and municipalities to solicit cooperation between all groups.

The proposed rule would require that each electric supplier and municipal electric system file its emergency load reduction plans and procedures with the Commission and to certify that its plans were properly coordinated. Furthermore, it would require yearly updating as necessary. This filing would be considered as a part of the Annual Reports now filed by electric suppliers and municipal electric systems. The mechanism is provided to allow the municipalities to voluntarily join with the electric suppliers in establishing coordinated emergency load reduction plans and procedures.

The Commission concludes that the provisions of the proposed rule provide the structure for greater cooperation between all suppliers of electricity in the coordination of emergency load reduction plans and procedures. The Commission further concludes that such cooperation and coordination is in the public interest.

IT IS, THEREFORE, ORDERED that Rule R8-41, FILING OF EMERGENCY LOAD REDUCTION PLANS AND PROCEDURES, attached hereto and made a part hereof, shall become a part of the Commission's Rules and Regulations, and a copy of said rule shall be served on each certificated public electric utility, electric membership corporation, and municipal corporations engaged in the generation, transmission, or distribution of electric energy.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of March, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

NORTH CAROLINA UTILITIES COMMISSION
Chapter 8
RULE ESTABLISHING REQUIREMENTS FOR REPORTS OF BULK POWER INTERRUPTIONS

ARTICLE 7. POWER RELIABILITY
RULE R8-41. FILING OF EMERGENCY LOAD REDUCTION PLANS AND PROCEDURES

a) All certificated public electric utility companies, electric membership corporations and municipal corporations engaged in the generation, transmission or distribution of electric energy, shall design and adopt a set of load reducing plans and procedures that will provide judicious treatment to all affected customers in the event that emergency load reduction is required, provided that compliance with the requirements of this paragraph by any municipal corporation shall be voluntary. Furthermore, the plans and procedures of each such electric supplier or participating municipal corporation shall be coordinated with the plans and procedures of its wholesale suppliers and/or wholesale-for-resale customers to the extent reasonably practicable.

b) A detailed copy of emergency load reduction plans and procedures in effect shall initially be filed by each electric supplier or municipal corporation in the office of the Commission by April 15, 1972. This filing shall be considered to be a part of the Annual Reports required to be filed with the Commission (G.S. 62-36 and G.S. 62-47) and shall be updated annually not later than May 15. Each filing shall contain a certification that such plans and procedures have been coordinated with the wholesale power supplier or wholesale-for-resale customers as applicable. Localized plans and procedures shall be made available for public review by such electric suppliers or municipal corporations in the local area offices to which these plans and procedures apply.

DOCKET NO. E-100, SUB 13

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Carolina Power & Light Company and Duke Power Company - Joint Application Regarding Nuclear Insurance	))))	ORDER GRANTING AUTHORITY TO PURCHASE POLICIES OF INSURANCE ISSUED BY NUCLEAR MUTUAL LIMITED

This cause comes before the Commission upon joint application of Carolina Power & Light Company and Duke Power Company (applicants) filed under date of November 21, 1972, by their counsel, Charles D. Barham, Jr., and Raymond A. Jolly, Jr., wherein authority of the Commission is sought as follows:

To purchase property insurance policies issued by Nuclear Mutual Limited for the protection of applicants against losses from radioactive contamination and other risks of direct physical loss at their nuclear electric generating plants.

FINDINGS OF FACT

1. Carolina Power & Light 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. Duke Power Company is a corporation organized and existing under the laws of the State of North Carolina, with its principal office at 422 South Church Street, Charlotte, 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.

3. The electric generating capacity of Carolina Power & Light Company includes a 700,000 KW nuclear fueled unit at its H. B. Robinson Plant near Hartsville, South Carolina, and Carolina Power & Light Company has under construction two 821,000 KW nuclear fueled units at its Brunswick Plant site, near Southport, North Carolina, for completion and operation in 1974 and 1975, respectively.

4. Duke Power Company has under construction three 886,300 KW nuclear fueled units at its Oconee Nuclear Station, near Seneca, South Carolina, scheduled for completion and operation in 1973, 1973 and 1974, respectively; and Duke Power Company also has under construction two 1,150,000 KW nuclear fueled units at its William B. McGuire Nuclear Station, near Charlotte, North Carolina, scheduled for completion and operation in 1976 and 1977, respectively.

5. Property insurance for the protection of insureds against radioactive contamination and other risks of direct physical loss at a nuclear electric generating plant has not been and is not available from individual insurance companies. Major insurance companies have formed pools which provide a maximum coverage of $100,000,000 on any one nuclear facility, the maximum coverage having been increased by the pools from $84,000,000 to $100,000,000 in November, 1971. There are two pools, NEPIA (Nuclear Energy Property Insurance Association), embracing the participating stock insurance companies, and MAERP (Mutual Atomic Energy Reinsurance Pool), embracing the participating mutual insurance companies.

6. Carolina Power & Light Company now carries insurance with NEPIA and MAERP on its H. B. Robinson nuclear unit in the aggregate amount of $100,000,000 and, in addition, is carrying with the pools Builders Risk Insurance on the nuclear facilities now under construction at its Brunswick site in the aggregate amount of 100,000,000. Annual premiums for such insurance coverage are approximately $500,000 and $121,800, respectively. The premium for the Brunswick site is subject to a monthly co-insurance penalty adjustment calculated on the basis of the values at risk at the site to the extent such values exceed the insurance coverage of $100,000,000.

7. Duke Power Company now carries insurance with NEPIA and MAERP in the aggregate amount of $100,000,000 on the nuclear facilities now under construction at its Oconee site and, in addition, is carrying with the pools Builders Risk Insurance in the approximate amount of $20,000,000 on the nuclear facilities now under construction at its McGuire site (The Builders Risk coverage increases as construction work progresses and the values at risk increase). Annual premiums for such insurance coverage are approximately $1,200,000 and $10,000, respectively. As soon as the values at risk at the McGuire site exceed $100,000,000, its premium will be subject to a monthly co-insurance penalty adjustment calculated on the basis of the values at risk at the site to the extent such values exceed the insurance coverage of $100,000,000. The values at risk at the McGuire site at the present time total approximately $20,000,000.

8. A majority of the public utilities which are operating or constructing nuclear electric generating plants in the United States, including applicants, recently undertook a serious and intensive study of the feasibility of establishing a mutual insurance company to insure their nuclear property risks. The study concluded that the interests of utilities operating nuclear power plants would be served by the organization of a mutual insurance company. Nuclear Mutual Limited, a Bermuda corporation, was organized by interested electric utilities to realize the advantages of mutual organization cited in the feasibility study.

9. Insurance activities of Nuclear Mutual Limited will commence on or about January 1, 1973, provided at least $7,000,000 of premium has been paid and at least twelve applicants have been accepted for membership. The initial maximum amount of coverage offered by Nuclear Mutual Limited will be $100,000,000 for each site, and initially its resources will be no less than $100,000,000, consisting of annual premiums totaling at least $7,000,000, and the obligations of the respective participants to pay, in the event that losses exceed premiums, a retrospective premium adjustment based on a multiple of a 12 months' premium under the participant's policy. Nuclear Mutual Limited insurance policies would provide essentially the same All Risk coverage now offered by NEPIA and MAERP.

10. Applicants, as insureds of Nuclear Mutual Limited, will assume a contingent liability for retrospective premiums. An available line of credit from commercial banks can be used by insureds of Nuclear Mutual Limited to spread the payment of retrospective premium calls, if any become necessary, over a period of five years.

11. The electric utility industry feasibility study disclosed that the pools have had a very favorable loss experience throughout the period in which they have insured nuclear risks. The eighteen-year experience of the pools through November, 1971, showed a loss experience of only approximately 31.5% of collected premiums. Nuclear Mutual Limited proposes to give good experience credits to its insureds in the form of premium refunds or reduced premiums.

12. Chapter 510 of the North Carolina 1971 Session Laws defines "nuclear insured" as "a public utility procuring insurance against radioactive contamination and other risks of direct physical loss at a nuclear electric generating plant" and authorizes a nuclear insured to procure policies of insurance on such risks on foreign insurance companies not authorized to transact business in this state.

13. On December 15, 1971, and July 24, 1972, the Boards of Directors of Carolina Power & Light Company and Duke Power Company, respectively, authorized their companies to participate in the organization of Nuclear Mutual Limited and to procure from Nuclear Mutual Limited policies of insurance on risks at its nuclear electric generating plants. As insureds of Nuclear Mutual Limited the applicants would participate in the governing of Nuclear Mutual Limited through participation as voting members and a representative of each applicant would be an initial director of Nuclear Mutual Limited.

CONCLUSIONS

From a review and study of the joint application, its supporting data and other information in the files of the Commission, the Commission is of the opinion and so concludes, that the applicants' proposed purchase of insurance policies from Nuclear Mutual Limited is:

(a) For a lawful object within the corporate purposes of the petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED That applicants be, and they are hereby authorized, empowered and permitted to accept insurance policies issued by Nuclear Mutual Limited substantially in the form of Exhibits C, D and E of Appendix I of their application, or other policies substantially following generally accepted commercial forms with respect to coverage, conditions and limitations and containing provisions for retrospective premium adjustment, such policies to be at the same rates and on the same terms, conditions and limitations, without discrimination for or against applicants, as applicable to similarly situated property of other insureds by Nuclear Mutual Limited.

IT IS FURTHER ORDERED That applicants shall include in their annual reports (FPC No. 1) filed with this Commission a separate schedule showing the gross annual premiums paid to Nuclear Mutual Limited during the report year and all dividends (refunds), if any, resulting from changes in loss claim experience, the accounting treatment given the dividends is to be shown along with other data or comments the applicants deem necessary in order to fully inform the Commission of the status of the Nuclear Mutual Limited's operations as they may affect the applicants.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

COMMISSIONER McDEVITT DISSENTS. Opinion to be filed later.

DOCKET NO. G-100, SUB 17

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Minimum Federal Safety Standards for Pipeline Facilities and Transportation of Gas Under Natural Gas Pipeline Safety Act as Codified in 49 USC 1671 et seq.	))))	ORDER ADOPTING AMENDMENTS TO THE MINIMUM FEDERAL SAFETY STANDARDS

BY THE COMMISSION: The Office of Pipeline Safety of the United States Department of Transportation promulgated Minimum Federal Safety Standards for pipeline facilities and the transportation of gas in 49 CFR Part 192.

On December 30, 1970, the North Carolina Utilities Commission issued an order under Docket No. G-100, Sub 13 adopting the Minimum Federal Safety Standards for Natural Gas Pipeline Safety as adopted by the Department of Transportation in 49 CFR Part 192.

On November 15, 1971, the North Carolina Utilities Commission issued an order under Docket No. G-100, Sub 15 adopting miscellaneous amendments to the Minimum Federal Safety Standards and Corrosion Control Standards.

Under the provisions of G.S. 62-50, the North Carolina Utilities Commission has jurisdiction over portions of intrastate natural gas pipelines within North Carolina and has authority over intrastate natural gas companies to the extent therein stated and intrastate natural gas utilities and municipal gas facilities. Since December 31, 1971, the Department of Transportation has issued the following amendments to the Minimum Federal Safety Standards 49 CFR Part 192.

(1) 49 CFR Part 191 - Transportation of natural and other gas by pipeline; report of leaks, elimination of annual report requirement for small petroleum gas distribution systems. Issued on January 21, 1972, 37 Federal Register 17.

(2) 49 CFR Part 192 - Amendment to Section 192.625 g (1) Odorization of Gas. Issued August 29, 1972, 37 Federal Register 172.

(3) 49 CFR Part 192 - Amendment to Section 192.727, Abandonment or inactivation of facilities and adoption of Section 192.379, New service lines not in use. Issued September 27, 1972, 37 Federal Register 192.

(4) 49 CFR Part 192 - Amendment to Section 192.201 A, Modification of pressure relief limitations. Issued September 28, 1972, 37 Federal Register 193.

(5) 49 CFR Part 192 - Amendment to add new section 192.12 Liquid natural gas facilities. Issued October 10, 1972, 37 Federal Register 199.

(6) 49 CFR Part 192 - Amendment to Section 192.717 (b), Transmission lines; permanent field repair of leaks. Issued October 11, 1972, 37 Federal Register 200.

The Commission is of the opinion that in many instances the state safety standards and the North Carolina Law under the authority of the Commission exceeds Minimum Federal Safety Standards; however, the Commission concludes that in the interest of cooperative regulation with appropriate Federal agencies and in review of the specific legislature mandate under provisions of G.S. 62-2 and G.S. 62-50 that the above stated amendments and new additions as adopted by the Department of Transportation in 49 CFR Part 191 and 192 should be adopted and made applicable to such pipeline facilities and facilities for transportation of natural gas under the jurisdiction of this Commission. Accordingly, under authority of G.S. 62-31,

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the following miscellaneous amendments and additions as listed to the Minimum Federal Safety Standards pertaining to gas pipeline safety and the transportation of natural gas as adopted in 49 CFR Part 191 and 49 CFR Part 192 as are in effect as of the date of this order be, and the same hereby are, adopted by the Commission to be applicable to all natural gas facilities under its jurisdiction except as to those requirements of North Carolina Law which exceed or are more stringent than the standards set forth in the above mentioned Federal enactment and further with the exception of any subsequent modification or amendment to the North Carolina Safety Standards.

(1) 49 CFR Part 191 - Transportation of natural and other gas by pipeline; report of leaks, elimination of annual report requirement for small petroleum gas distribution systems. Issued on January 21, 1972, 37 Federal Register 17.

(2) 49 CFR Part 192 - Amendment to Section 192.625 (g) (1) Odorization of Gas. Issued August 29, 1972, 37 Federal Register 172.

(3) 49 CFR Part 192 - Amendment to Section 192.727, Abandonment or inactivation of facilities and adoption of Section 192.379, New service lines not in use. Issued September 27, 1972, 37 Federal Register 192.

(4) 49 CFR Part 192 - Amendment to Section 192.201 (a), Modification of pressure relief limitations. Issued September 28, 1972, 37 Federal Register 193.

(5) 49 CFR Part 192 - Amendment to add new section 192.12, Liquid natural gas facilities. Issued October 10, 1972, 37 Federal Register 199.

(6) 49 CFR Part 192 - Amendment to Section 192.717 (b), Transmission lines; permanent field repair of leaks. Issued October 11, 1972, 37 Federal Register 200.

2. That a copy of the Amendments attached hereto as Appendix "A" be mailed to all natural gas utilities and municipal operators under the jurisdiction of this Commission.

3. That a copy of this order be mailed to all natural gas utilities and the municipal gas operators under the jurisdiction of this Commission.

4. That a copy of this order be transmitted to the Department of Transportation, Washington, D. C.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
OFFICE OF THE SECRETARY OF TRANSPORTATION
WASHINGTON, D. C. 20590

TITLE 49 - TRANSPORTATION
Chapter 1 - Department of Transportation
SUBCHAPTER B - OFFICE OF PIPELINE SAFETY
[Amdt. 191-2: Docket No. OPS-17]

PART 191 - TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: REPORTS OF LEAKS

Elimination of Annual Report Requirement for Small Petroleum Gas Distribution Systems

The purpose of this amendment to the leak reporting requirements of Part 191 is to relieve the operators of petroleum gas systems serving less than 100 customers of the requirement of making a 1971 annual report. The amendment is made in response to a petition by the National LP-Gas Association.

In the petition and other related correspondence, several contentions are made in support of the requested relief. The Association points out that, in contrast to most natural gas distribution companies, LP gas operators are relatively small businesses, frequently involving only one or two employees. Thus the requirement for preparing an annual report imposes a much greater burden on these small operators. In addition, since the annual report was prepared on the basis of experience with the larger, natural gas distribution companies, many of the information items on the report are not appropriate for small, isolated petroleum gas systems.

Due to these factors it appears that much of the information received will be misleading, incorrectly stated, and of very little value in the data processing system the Department has established for these reports. To avoid the continuation of this burden which does not provide a commensurate benefit, the Department is amending the annual report requirements for the operators of small petroleum gas systems.

The 1971 annual report will not be required from any operator whose systems serve less than 100 customers from a

single source. An operator with one or more systems serving 100 or more customers is still required to report, but only with respect to those large systems.

The Department plans at an early date to begin action aimed at developing new reporting requirements and forms which will be more appropriate for petroleum gas systems and small operators. In developing these new requirements, the Department will consider also the situation of operators of small natural gas systems, since they may have similar difficulties. This further action in developing new requirements will be carried out through formal rule making in which all interested parties have an opportunity to comment on proposed regulations.

Due to the imminence of the February 15 reporting deadline, good cause is found for making this amendment effective immediately.

In consideration of the foregoing §191.11 of Title 49 of the Code of Federal Regulations is amended to read as follows, effective immediately.

This amendment is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. section 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the delegation of authority to the Director, Office of Pipeline Safety, dated November 6, 1968 (33 F.R. 16468).

§191.11 Distribution system: Annual report.

(a) Except as provided in paragraph (b) of this section, each operator of a distribution system shall submit an annual report on Department of Transportation Form DOT F 7100.1-1. This report must be submitted not later than February 15 for the preceding calendar year.

(b) The annual report required by paragraph (a) of this section need not be submitted with respect to petroleum gas systems which serve less than 100 customers from a single source.

Issued in Washington, D. C., on January 21, 1972.

JOSEPH C. CALDWELL,
Acting Director,
Office of Pipeline Safety.

[FR Doc. 72-1241 Filed 1-24-72;5:00 pm]

FEDERAL REGISTER, VOL. 37, NO. 17 - WEDNESDAY, JANUARY 26, 1972

Federal Register Publication Date, September 2, 1972
Vol. 37 No. 172

Title 49--Transportation
CHAPTER 1--DEPARTMENT OF TRANSPORTATION
SUBCHAPTER B--OFFICE OF PIPELINE SAFETY

[Amdt. 192-7; Docket No. OPS-3E]

PART 192--TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Odorization of Gas in Transmission Lines

The purpose of this amendment is to extend the period of time during which the interim Federal safety standards applying to gas odorization may remain in effect in those States now requiring the odorization of gas in transmission lines.

On November 6, 1970, the Department issued Amendment 192-2 (35 F. R. 17335, November 11, 1970). This amendment kept the interim Federal safety standards on odorization in effect in States whose interim standards required the odorization of gas in transmission lines. These interim standards were to remain in effect until January 1, 1972, or the date upon which the distribution companies in those States were odorizing gas in accordance with §192.625, whichever occurred earlier. On December 28, 1971, the Department issued Amendment 192-6, which further extended this date to September 1, 1972, (36 F. R. 25423, December 31, 1971).

Based on extensive studies of the subject conducted over the past year, it appears that certain limited odorization of transmission lines may be warranted. The Department is considering this question and expects to propose regulatory changes very shortly. In order to allow sufficient time for carrying out this rule-making proceeding, these interim standards for odorization of gas transmission lines are being extended again until the date upon which the distribution companies in that State have actually taken over the odorization of gas in mains and service lines in accordance with the requirements of Section 192.625. Until that time, gas in transmission lines must continue to be odorized in those States. By June 1, 1973, the Department anticipates that the rulemaking proceeding will be complete and the interim standards can be allowed to lapse.

Since the regulatory provisions that are affected by this amendment are presently in effect, and since this amendment will impose no additional burden on any person, I find that notice and public procedure thereon are impractical and unnecessary and that good cause exists for making it effective on less than 30 days' notice.

In consideration of the foregoing, §192.625(g) (1) of Title 49 of the Code of Federal Regulations is amended, effective immediately, to read as follows:

§ 192.625 Odorization of gas.

* * * * *

(g) * * *

(1) June 1, 1973; or

* * *

This amendment is issued under the authority of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. Section 1671 et seq.), Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D. C., on August 29, 1972.

Joseph C. Caldwell
Director
Office of Pipeline Safety

Publication date October 3, 1972

Federal Register
Vol. 37 No. 192

TITLE 49 - TRANSPORTATION
Chapter I - Department of Transportation
Subchapter B - Office of Pipeline Safety
[Amdt. 192-8; Docket OPS-10]

Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards

Deactivation of Service Lines

This amendment of the Federal safety standards for gas pipelines will require certain steps to be taken in order to prevent the unauthorized introduction of gas into inactive pipeline facilities. This rule making involves a revision of section 192.727 of title 49 of the Code of Federal Regulations and the addition of a new section 192.379 to Part 192.

These amendments are in response to a clearly demonstrated need for positive regulatory action as indicated by two gas explosion incidents discussed in the notice proposing this rule making. The objective is to prevent unauthorized persons from activating gas service lines that have been deactivated or abandoned, or are not presently in use.

On June 4, 1971, a notice of proposed rule making was published in the Federal Register (OPS Notice 71-2, 36 F.R.

10885) proposing certain changes in the regulations designed to prevent the unauthorized introduction of gas into inactive service lines. Interested persons were afforded an opportunity to participate in the rule making by submitting written information, views, or arguments. The opinions and data presented in the comments that were subsequently received have been fully considered and are reflected in these final rules.

Several commenters correctly noted that one of the gas explosion accidents mentioned in the notice of proposed rule making involved newly installed yet inactive facilities rather than abandoned or deactivated pipeline facilities. They questioned whether the proposed regulations would cover such situations. As the intent of these amendments is to prevent the unauthorized introduction of gas into any pipeline not presently in service, whether abandoned, deactivated, or not yet activated, section 192.379 has been added to the Federal safety standards to make clear that new service lines must also meet the same requirements.

Proposed section 192.727 (c) (now redesignated as section 192.727 (d)), would have provided for the deactivation of customer service lines by two alternative methods. In response to a large number of recommendations, a third alternative method has been adopted which allows for the installation in the service line or meter assembly of a mechanical device or fitting that will prevent the flow of gas. This method is in common usage and has proven effective in terms of overall safety. Also in answer to many comments, the requirement for physical removal of customer meters on inactive service lines (proposed as section 192.727 (d)), has been deleted. This is now believed to be an unnecessary measure when one of the alternatives prescribed by new paragraph (d) has been met.

Paragraphs (e) and (f) of the proposed amendment have not been changed.

A number of commenters expressed objection to proposed section 192.727 (b), on the basis that it made necessary the disconnecting, purging, and sealing of properly maintained pipeline facilities that are not subject to gas pressure in the course of normal operations. There are instances when pipelines, such as bypasses, are commonly not subject to gas pressure, and a requirement that such pipelines be sealed off from any potential gas supply is not feasible. This paragraph has therefore been revised and a new paragraph (c) has been added to avoid this problem.

Paragraph (b) now establishes safety requirements for all pipelines, the use of which is to be permanently discontinued, that is, for all pipelines that are to be abandoned. Paragraph (c) contains deactivation requirements applying only to pipelines, other than service lines, which are not being maintained under the Federal safety standards.

Thus, a pipeline not normally subject to gas pressure need not meet the requirements of this paragraph.

Section 4(a) of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Technical Pipeline Safety Standards Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal." This amendment to Part 192 has been submitted to the Committee and it has submitted a favorable report. The Committee's report and the proceedings of the Committee which led to that report are set forth in the public docket for this amendment which is available at the Office of Pipeline Safety.

In consideration of the foregoing, Part 192 of title 49 of the Code of Federal Regulations is amended as follows, effective November 3, 1972.

1. The table of sections for Part 192, Subpart H, is amended by adding the following new section heading after section 192.377:
§192.379 New service lines not in use.

2. The following new section is added after §192.377 in Subpart H.
§192.379 New service lines not in use.

Each service line that is not placed in service upon completion of installation must comply with one of the following until the customer is supplied with gas:

(a) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.

(b) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.

(c) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

3. Section 192.727 is amended to read as follows:
§192.727 Abandonment or inactivation facilities.

(a) Each operator shall provide in its operating and maintenance plan for abandonment or deactivation of pipelines, including provisions for meeting each of the requirements of this section.

(b) Each pipeline abandoned in place must be disconnected from all sources and supplies of gas, purged of gas, and the ends sealed. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(c) Except for service lines, each inactive pipeline that is not being maintained under this part must be disconnected from all sources and supplies of gas, purged of gas, and the ends sealed. However, the pipeline need not be purged when the volume of gas is so small that there is no potential hazard.

(d) Whenever service to a customer is discontinued, one of the following must be complied with:

(1) The valve that is closed to prevent the flow of gas to the customer must be provided with a locking device or other means designed to prevent the opening of the valve by persons other than those authorized by the operator.

(2) A mechanical device or fitting that will prevent the flow of gas must be installed in the service line or in the meter assembly.

(3) The customer's piping must be physically disconnected from the gas supply and the open pipe ends sealed.

(e) If air is used for purging, the operator shall ensure that a combustible mixture is not present after purging.

(f) Each abandoned vault must be filled with a suitable compacted material.

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.§1672), section 1.58(d) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D. C., on September 27, 1972.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

Publication date October 4, 1972
Federal Register
Vol. 37 No. 193

Title 49--Transportation
CHAPTER I--DEPARTMENT OF TRANSPORTATION
SUBCHAPTER B--OFFICE OF PIPELINE SAFETY
[Amdt. 192-9; Docket OPS-13]

PART 192--TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Modification of Pressure Relief Limitations

This amendment to section 192.201(a) changes the restriction on accidental pressure buildup in pipelines, other than low pressure distribution systems, which have a maximum allowable operating pressure (MAOP) of less than 60 p.s.i.g.

On November 10, 1971, the Department issued a notice of proposed rule making in the Federal Register proposing these regulatory changes (OPS Notice 71-6, 36 F.R. 21834, November 16, 1971). Interested persons were afforded an opportunity to participate in the rule making by submitting written information, views, or arguments. Several comments subsequently were received and have been given full consideration. However, the amendment is issued without substantive change from the proposal.

Two commenters recommended making the proposed changes available for systems with MAOP's up to 150 p.s.i.g. Justification for such recommendations was based on an expressed desire to avoid possible difficulties arising in utilizing present pressure relief systems under the amended standards. As it is only when the MAOP of a system is below 60 p.s.i.g. that present-day regulating equipment cannot accurately limit accidental overpressure to the present 10 percent of MAOP standard, it is in the best interest of overall safety that the proposed amendment allowing an increase in the limits for accidental overpressure be restricted to systems with MAOP's of 60 p.s.i.g. or less.

Another comment suggested a revision in the proposed amendment to make the maximum pressure limitation applicable only at the most remotely located pressure limiting station in order to reduce the possibility of having to vent gas into the atmosphere in Class 3 or 4 locations. However, it is felt that the potential hazard of such venting is negligible in comparison with the greater risks involved in allowing the pressure in the entire system to be monitored at its most remotely located point. Such a procedure has the potential to allow pressure buildups well above the established limits in other parts of the distribution system.

Section 4 (a) of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Technical Pipeline Safety Standards Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal". This amendment to Part 192 has been submitted to the Committee and it has submitted a favorable report. The Committee's report and the proceedings of the Committee which led to that report are set forth in the public docket for this amendment which is available at the Office of Pipeline Safety.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended by revising §192.201(a) to read as follows, effective November 4, 1972.

§192.201 Required capacity of pressure relieving and limiting stations.

(a) Each pressure relief station or pressure limiting station or group of those stations installed to protect a pipeline must have enough capacity, and must be set to operate, to ensure the following:

(1) In a low pressure distribution system, the pressure may not cause the unsafe operation of any connected and properly adjusted gas utilization equipment.

(2) In pipelines other than a low pressure distribution system--

(i) If the maximum allowable operating pressure is 60 p.s.i.g. or more, the pressure may not exceed the maximum allowable operating pressure plus 10 percent, or the pressure that produces a hoop stress of 75 percent of SMYS, whichever is lower;

(ii) If the maximum allowable operating pressure is 12 p.s.i.g. or more, but less than 60 p.s.i.g., the pressure may not exceed the maximum allowable operating pressure plus 6 p.s.i.g.; or

(iii) If the maximum allowable operating pressure is less than 12 p.s.i.g., the pressure may not exceed the maximum allowable operating pressure plus 50 percent.

* * * * *

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. §1672), section 1.58(d) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the

redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D. C., on Sep. 28, 1972.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety.

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Publication date 10/31/72
Federal Register
Vol. 37 No. 199

Title 49--Transportation
CHAPTER I--DEPARTMENT OF TRANSPORTATION
SUBCHAPTER B--OFFICE OF PIPELINE SAFETY
[Amdt. 192-10; Docket OPS-14]

PART 192--TRANSPORTATION OF NATURAL AND OTHER GAS BY PIPELINE: MINIMUM FEDERAL SAFETY STANDARDS

Liquefied Natural Gas Systems

The Department of Transportation is amending Part 192 to create a new section 192.12 that will establish Federal safety standards for liquefied natural gas (LNG). This will be accomplished by incorporating into the regulations, by reference, standards developed in the revised and enlarged version of Standard 59A approved by the National Fire Protection Association (NFPA) on May 19, 1971.

On January 6, 1972, a notice of proposed rule making was published in the Federal Register proposing that NFPA Standard 59A be incorporated into Part 192 (OPS Notice 72-1; 37 F.R. 145, January 6, 1972). Interested persons were afforded an opportunity to participate in the rule making by submitting written information, views, or arguments. The opinions and data presented in the comments that were subsequently received have been given full consideration.

Many commenters were concerned that LNG facilities presently in existence or under construction would be required to comply with the adopted NFPA Standard. Such a retroactive application of these LNG regulations is not intended and indeed is restricted by the Natural Gas Pipeline Safety Act (49 U.S.C. §1672(b)). A provision has therefore been added to section 192.12 to make clear that LNG facilities in operation or under construction before January 1, 1973, need not be in compliance with NFPA Standard 59A, except that they will be required to adhere to the applicable operating requirements and, after December 31, 1972, to the modification and repair requirements of NFPA Standard 59A and of Part 192.

A number of commenters suggested specific modifications of individual sections of the NFPA Standard. Such changes are not feasible at this time as the Department is adopting the NFPA Standard only as an interim measure while developing permanent regulations specifically applicable to LNG facilities. With this development of LNG regulations, full attention will be given by the Department to these recommendations.

As suggested by commenters, the term "process" in the proposed regulation has been replaced with the term "treat", and the term "pipeline facility" has been substituted for the term "system". These changes are made to clarify the applicability of the adopted NFPA Standard by employing terms used in the Natural Gas Pipeline Safety Act and in Part 192. Further, the term "transport" has been replaced by the term "transfer" to indicate that these interim LNG safety standards govern the transfer of LNG by pipeline within an LNG pipeline facility and not to its transportation over extended distances.

In the event of a conflict between adopted NFPA Standard 59A and Part 192, section 192.12 allows the operator of the LNG facility the opportunity to make a considered determination as to which standard should prevail in resolving such conflicts. When no such conflicts are apparent, both NFPA Standard 59A and the provisions of Part 192 must be complied with to the fullest possible extent.

Section 4(a) of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Technical Pipeline Safety Standards Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal". This amendment to Part 192 has been submitted to the Committee and it has submitted a favorable report. The Committee's report and the proceedings which led to that report are set forth in the public docket for this amendment which is available at the Office of Pipeline Safety.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended as follows, effective November 13, 1972.

1. The table of sections for Part 192 is amended by adding the following new section heading after section 192.11:

§192.12 Liquefied natural gas facilities.

2. The following new section is added after section 192.11:

§192.12 Liquefied natural gas facilities.

(a) Except for a pipeline facility in operation or under construction before January 1, 1973, no operator may store, treat, or transfer liquefied natural gas in a pipeline facility unless that pipeline facility meets the applicable requirements of this part and of NFPA Standard No. 59A.

(b) No operator may store, treat, or transfer liquefied natural gas in a pipeline facility in operation or under construction before January 1, 1973, unless

(1) The facility is operated in accordance with the applicable operating requirements of this part and of NFPA Standard 59A; and

(2) Each modification or repair made to the facility after December 31, 1972, conforms to the applicable requirements of this part and NFPA Standard 59A, insofar as is practicable.

3. Section II.F. of Appendix A to Part 192 is amended by adding the following new item at the end thereof:

4. NFPA Standard 59A "Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG)"(1971 edition).

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.§1672), section 1.58(d) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D. C., on 10/10/72.

JOSEPH C. CALDWELL
Director
Office of Pipeline Safety

Publication date 10/14/72
Federal Register
Vol. 37 No. 200

TITLE 49 - TRANSPORTATION
Chapter I - Department of Transportation
Subchapter B - Office of Pipeline Safety
[Amdt. 192-11 Docket OPS - 20]

Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards

Mechanically Coupled Repair Sleeves

The purpose of this amendment of section 192.717(b) is to modify a provision of the Federal safety standards for gas pipeline facilities. This change will permit the permanent field repair of pipeline leaks by means other than welded repair sleeves when the transmission line involved operates at less than 40 percent of SMYS.

For the permanent field repair of pipeline leaks when it is not feasible to take the segment being repaired out of service, section 192.717(b) requires that it must be repaired by installing a full encirclement welded split sleeve. The section of the interim safety standards from which this provision was derived was limited in application to lines operating above 40 percent of SMYS. By removing this limitation and using the term "transmission line" as defined in Part 192, the requirement was made applicable to all lines operating at 20 percent or more of SMYS. Thus while under the interim standards the requirement applied only to lines operating over 40 percent of SMYS, the regulation issued applied as well to transmission lines operating between 20 percent and 40 percent of SMYS.

Since the issuance of Part 192, experience and further study have demonstrated that, in certain instances, there are insufficient safety reasons for this requirement in light of its practicality and the costs involved. If a pipeline operating between 20 percent and 40 percent of SMYS is joined by means other than welding, very little is gained by requiring that repairs be made by welding on a full encirclement repair sleeve. This paragraph is therefore being amended to exempt lines joined by means other than welding that operate below 40 percent of SMYS.

Section 4(a) of the Natural Gas Pipeline Safety Act requires that all proposed standards and amendments to such standards be submitted to the Technical Pipeline Safety Standards Committee and that the Committee be afforded a reasonable opportunity to prepare a report on the "technical feasibility, reasonableness, and practicability of each such proposal". This amendment to Part 192 has been submitted to the Committee and it has submitted a favorable report. The Committee's report and the proceedings of the Committee which led to that report are set forth in the public docket for this amendment which is available at the Office of Pipeline Safety.

As this amendment removes an unnecessary restriction and imposes no additional burdens, I find that notice and public procedure thereon are not necessary.

In consideration of the foregoing, Part 192 of Title 49 of the Code of Federal Regulations is amended by revising Section 192.717(b) to read as follows, effective November 14, 1972.

§192.717 Transmission lines: permanent field repair of leaks.

* * * * *

(b) If it is not feasible to take the segment of transmission line out of service, repairs must be made by installing a full encirclement welded split sleeve of appropriate design, unless the transmission line--

(1) Is joined by mechanical couplings; and

(2) Operates at less than 40 percent of SMYS.

* * * * *

This amendment is issued under the authority of section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. §1672), section 1.58(d) of the Regulations of the Office of the Secretary of Transportation (49 CFR 1.58(d)), and the redelegation of authority to the Director, Office of Pipeline Safety, set forth in Appendix A to Part 1 of the Regulations of the Office of the Secretary of Transportation (49 CFR Part 1).

Issued in Washington, D.C., on October 11, 1972.

JOSEPH C. CALDWELL,
Director,
Office of Pipeline Safety

DOCKET NO. P-100, SUB 27

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Non-recurring Charges for Installations, Changes, Moves and Reconnects by Telephone Companies Under the Jurisdiction of the North Carolina Utilities Commission.	)	ORDER DISMISSING INVESTIGATION

HEARD IN: The Hearing Room of the Commission, One West Morgan Street, at 10:00 A.M., on January 25, 1972.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt, Marvin R. Wooten, Hugh A. Wells and Miles H. Rhyne.

APPEARANCES:

For the Respondents:

R. Frost Branon, Jr.
Southern Bell Telephone and Telegraph Company

P. O. Box 2211, Atlanta, Georgia
For: Southern Bell Telephone and
Telegraph Company

Drury B. Thompson
Southern Bell Telephone and Telegraph Company
P. O. Box 2211, Atlanta, Georgia
For: Southern Bell Telephone and
Telegraph Company

A. H. Graham, Jr.
Newsom, Graham, Strayhorn, Hedrick & Murray
Attorneys at Law
P. O. Box 2088, Durham, North Carolina 27702
For: General Telephone Company of the Southeast

Ward W. Wueste, Jr.
Attorney at Law
P. O. Box 1412, Durham, North Carolina 27702
For: General Telephone Company of the Southeast

William W. Aycock, Jr.
Taylor, Brinson & Aycock
Attorneys at Law
P. O. Box 308, Tarboro, North Carolina 27886
For: Carolina Telephone and Telegraph Company

L. S. Blades, III
Norfolk and Carolina Telephone and Telegraph
Company
P. O. Box 307
Elizabeth City, North Carolina 27909
For: The Norfolk and Carolina Telephone and
Telegraph Company

Larry McDevitt
Attorney at Law
18-1/2 Church Street
Asheville, North Carolina
For: Western Carolina Telephone Company
Westco Telephone Company

(All other telephone companies under the jurisdiction of the North Carolina Utilities Commission appeared in this case either by affidavit or by company officials or employees.)

For the Intervenors:

I. Beverly Lake, Jr.
Attorney General's Office
Revenue Building
Raleigh, North Carolina
For: Using and Consuming Public

Wade H. Hargrove
Attorney at Law
Suite 603, BB&T Building
Raleigh, North Carolina 27601
For: North Carolina Association of
Broadcasters, Inc.

For the Commission Staff:

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

WOOTEN, COMMISSIONER: This matter arises upon Order issued by this Commission, upon its own Motion, dated September 30, 1971, wherein the Commission ordered that an investigation be instituted to determine the justness and reasonableness of establishing higher non-recurring charges for telephone installations, changes, moves and reconnects for all telephone companies under the jurisdiction of this Commission on a uniform basis. The Commission's Order further placed the burden of proof upon each of the companies operating under its jurisdiction to justify any schedule of rates which a particular company contended should be adopted, and particularly instructed said company to produce evidence, if it could, that the following rates are just and reasonable:

SERVICE CONNECTION CHARGES:

Instrumentalities Not In Place	
Main Stations, Toll Terminals, Private Branch Exchange Trunks, Tie Lines Terminations and Foreign Exchange Stations, each	$12.50
Extension Stations, Private Branch Exchange Stations and Extension Bells and Gongs, each	$ 7.50
Instrumentalities In Place	
Entire service or instrument utilized or Private Branch Exchange Station, each	$ 7.50

INSIDE MOVES AND CHANGES:

Main Stations, Extension, Private Branch Stations, Foreign Exchange Stations and Extension Bells and Gongs, each	$ 7.50

RESTORATION OF SERVICE:

Restoration of Service suspended for non-payment of charges, each	$ 7.50

The Commission's Order of September 30, 1971, ordered the respective telephone companies to give public notice of the hearing in this case in newspapers having general circulation in their respective service areas, and set this matter for hearing at the time and place as captioned. The respective companies were instructed to file their data and prepared testimony at least 45 days prior to the hearing in this case, and also required the filing of appropriate information on how each company would propose to flow through to its ratepayers the additional monies it would receive in the event the Commission should approve a higher schedule of service charges as proposed in the Commission's said Order and/or that the companies might propose.

Public notice as ordered by the Commission's Order of Investigation was duly and appropriately given by and on behalf of each of the companies under the jurisdiction of this Commission. Notice of Intervention by the Attorney General of North Carolina, on behalf of the using and consuming public, was received on December 22, 1971, and was recognized by this Commission's Order dated December 28, 1971. Petition to Intervene was filed with the Commission on January 17, 1972, by the North Carolina Association of Broadcasters, Inc., which said intervention was allowed by Order of this Commission dated the 24th day of January, 1972.

Upon the call of this matter for hearing, all parties were present and represented by attorneys of record or company officers or employees as indicated in the record of this hearing, except for those whose appearance was allowed by the Commission via affidavit, and were thereby afforded an opportunity to present all such evidence and data as they might desire in connection with the investigation herein.

Upon the completion of this hearing and investigation into this matter, it appearing to the Commission and the Commission being of the opinion that the respondents have failed to carry the burden of proof, by the evidence and its greater weight, establishing the justness and reasonableness of establishing higher non-recurring charges for telephone installations, changes, moves and reconnects, on a uniform basis for all telephone companies under the jurisdiction of this Commission and that, therefore, this investigation should be discontinued and this docket closed.

NOW, THEREFORE, IT IS ORDERED:

That this investigation be, and the same is, hereby discontinued and this docket be, and the same is, hereby dismissed and closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of February, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-100, SUB 28

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Intrastate Toll Rates and Charges of all Telephone Companies under the Jurisdiction of the North Carolina Utilities Commission	)	ORDER DENYING TOLL RATE INCREASE

HEARD IN: The Hearing Room of the Commission, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on March 21, 1972, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt, Marvin R. Wooten, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Telephone Companies:

R. C. Howison, Jr.
For: Southern Bell Telephone and Telegraph Company

Harvey L. Cosper
For: Southern Bell Telephone and Telegraph Company

John P. Beasley
For: Southern Bell Telephone and Telegraph Company

Ward W. Wueste, Jr.
For: General Telephone Company of the Southeast

William W. Aycock, Jr.
For: Carolina Telephone and Telegraph Company

L. S. Blades, III
For: The Norfolk and Carolina Telephone and Telegraph Company

For the Commission Staff:

Edward B. Hipp
Commission Attorney
North Carolina Utilities Commission
Raleigh, North Carolina 27602

William E. Anderson
Assistant Commission Attorney
North Carolina Utilities Commission
Raleigh, North Carolina 27602

BY THE COMMISSION: On October 15, 1971, in Docket No. P-55, Sub 681, Southern Bell Telephone and Telegraph Company applied for an increase in rates for intrastate local and toll telephone service in North Carolina. The intrastate toll increases applied for were in addition to the increases granted to Southern Bell in Docket No. P-55, Sub 650 and to the remaining telephone companies in Docket No. P-100, Sub 26.

The Commission, on November 8, 1971, in Docket No. P-55, Sub 681, ordered that Bell's application for increased intrastate toll rates be separated from Docket No. P-55, Sub 681, and in a separate proceeding in a new docket, this Docket, P-100, Sub 28, made all telephone companies under the jurisdiction of the Commission parties to the proceeding and on its own motion the Commission set same for public hearing in the Commission's Hearing Room for 10:00 A.M., March 21, 1972, and required that public notice be given.

During December 1971 and early January 1972, the telephone companies other than Southern Bell under the jurisdiction of the Commission filed tariffs to increase rates for wide area telephone service (WATS) to the same level of rates as were authorized for Southern Bell in Docket No. P-55, Sub 650. In filing, all companies stated that WATS revenues were settled according to intrastate toll settlement agreements with Southern Bell, which said settlements are predicated on uniformity of rates and that non-uniform rates are discriminatory. The Commission being of the opinion that the WATS proposal affected the public interest concluded that the same should appropriately be considered within the framework of a formal proceeding and hearing and concluded that the best means of accomplishing this goal was to expand the pending proceeding in Docket No. P-100, Sub 28 to include WATS. The Commission issued its Order on January 18, 1972, to include the WATS tariffs in Docket No. P-100, Sub 28 and suspended until further order of the Commission the WATS tariffs as filed. Each regulated telephone company in North Carolina except Southern Bell was required to mail notice by first class mail to each of its subscribers to intrastate WATS service.

A hearing was held as scheduled with 26 companies being represented by one or more witnesses, one by affidavit, and one excused from appearing.

NARRATION OF TESTIMONY

Mr. Garity, an Assistant Vice President in Operations - Staff for Southern Bell Telephone and Telegraph Company, Atlanta, Georgia, was tendered and recognized as an expert in the field of designing telephone company local and toll

subscriber rates and rate schedules and in the field of settlements between telephone companies. He cited the following reasons advocating the desirability of having uniform toll rates throughout the State of North Carolina:

(1) Since all companies including Southern Bell share in an integrated statewide toll network, a uniform tariff would provide equitable treatment for all toll users.

(2) Savings resulting from mechanized processing of toll calls would be lost because of double handling that would result from different rate schedules.

(3) More expense and heavier training costs would be encountered in dealing with two or more intrastate rate schedules.

(4) More circuit holding time would be experienced, which would eventually require more circuits to handle the same volume of business.

Mr. Garity next explained the structuring of the proposed toll rate schedule which would produce an annual revenue increase of $5,141,000. The schedule was structured to encourage a shift from operator handled traffic to DDD traffic.

Mr. Garity then expressed his views on where the additional revenue should come to pay the increased toll settlements to independent companies resulting from any increase granted Bell in Docket No. P-55, Sub 681. He indicated that an increase in toll rates should provide the additional revenue rather than Bell's local rate subscribers to local service.

Mr. Garity gave the following breakdown of the proposed $5,141,000 increased settlements to the independent companies. Actually the $5,141,000 would be the additional revenue produced by the increase in toll rates, while $5,125,000 would be the expected increase in independent companies' toll settlements. $275,000 of this $5,125,000 would be applicable to standard contract settlement companies and $4,850,000 would be applicable to cost study contract companies. The increase to cost companies is related directly to the improvement in Bell's combined (local exchange and toll) intrastate rate of return which was computed in the general rate case to be 2.39 percentage points assuming all the increase asked for is granted by the North Carolina Utilities Commission. The increase to standard contract companies occurs through the toll rate change itself.

Under cross examination by Mr. Anderson, Mr. Garity agreed that uniformity of WATS rates was also desirable for the same reasons cited previously since WATS is a form of toll service. He also indicated that, by allowing the independent companies to adopt the same WATS tariffs that

Bell was granted in Docket No. P-55, Sub 650, Bell would receive an additional $84,000 in revenues and that the proposed $5,141,000 increase should be diminished by the $84,000. Mr. Anderson ascertained that the settlement rate base which Mr. Garity's computations related to was the same as the settlement rate base at the end of the test year, July 31, 1971, in Docket No. P-55, Sub 681 and was approximately $398,450,000.

Commissioner McDevitt proposed that Mr. Garity's testimony given in Bell's general rate case in Docket No. P-55, Sub 681 be incorporated by reference to the proceedings in this case. There was no objection to this proposal and the incorporation was made.

In the general rate case, Commissioner Wells expressed the opinion that Bell's settlement procedures seemed to complicate rather than facilitate the rate making process and he asked Mr. Garity why the settlements with cost companies could not be predicated on using Bell's rate of return from intrastate toll operations only rather than Bell's over-all intrastate rate of return made up of toll and local portions. Mr. Garity responded stating that that form of settlement made more sense to him. He further stated that this was now possible because of the adoption of the Ozark plan which provides a separations arrangement which is agreed to by the whole telephone industry and which provides for jurisdictional separations between interstate and intrastate. Mr. Garity stated that to go to this proposed form of settlement would require Bell to change their processes and he was not sure how quickly this could be done but indicated it was feasible.

Under questioning from Commissioner Wooten, Mr. Garity stated that the only reason for proposing a toll rate increase was to pay the additional cost incurred by way of settlement occasioned by improvement in Bell's intrastate rate of return. Mr. Garity further stated that he would have preferred to have a purely local rate change at this time if the increased toll payments to independent companies had not been a factor.

In further response to Commissioner Wooten, Mr. Garity reiterated his preference to settling with the cost companies using Bell's intrastate toll only rate of return and indicated that he would strongly recommend that his company accept any directive given by the Commission proposing this way of settlement. He also indicated that settlement contracts would have to be renegotiated to incorporate this approach. He further indicated that this method of settlement is required of the Bell companies in California and Nevada.

Mr. Garity had no feel as to how such a settlement change would affect the revenues for the independent cost companies, but that it would probably fluctuate and wash itself out over a period of years.

Mr. Garity agreed that in a broad sense the theory of cost settlement contracts was based on the theory of partnership in that all the companies join together in rendering a common intrastate message toll service in North Carolina.

Next Mr. Garity indicated that Bell's settlement base with the independent cost companies is on a net original cost basis being intrastate including toll and local components. To this is added materials and supplies and plant under construction. It does not include cash working capital. The independent companies' rate bases do not include any local facilities.

Mr. Hayes, District Accounting Manager - Toll Revenue of Southern Bell Telephone and Telegraph Company, Charlotte, North Carolina, testified to the increase in toll settlement revenues the standard contract companies would receive if the intrastate toll rates applied for by Bell in Docket No. P-55, Sub 681 had been in effect.

Mr. Hayes indicated that the method used to arrive at the increase in revenues by the company was based on a similar method used in Docket No. P-100, Sub 26. The September 1971 intrastate toll revenues were increased 6% to reflect what the present rate case, P-55, Sub 681, would generate as far as intrastate toll revenues. An annualization factor for each company was determined on a message basis to arrive at an annual increase in intrastate toll revenues for a representative year ending February 28, 1972. For a representative year ending February 28, 1973, a 14% increase was applied to the February 28, 1972, figures to reflect growth in the intrastate toll revenues.

Under cross examination by Mr. Anderson, Mr. Hayes indicated that the 6% increase was applied to a total of two figures - the September 1971 actual figures and the additional amount as estimated in Docket No. P-100, Sub 26.

Mr. Hayes further indicated that the increase in revenues to the standard contract companies was computed to be $275,381. Of this amount, $226,710 was applicable to 14 standard contract companies under the jurisdiction of the North Carolina Utilities Commission. The balance of $48,671 was applicable to six companies not under the North Carolina Utilities Commission's jurisdiction - Atlantic Company, Pineville Company, Skyland Company, Star Company, University Company and Yadkin Valley Company. Mr. Hayes indicated that these six companies were included because uniform rates would also cause Bell to have to pay increased settlements to them.

Mr. Rudisill, Independent Company Relations Supervisor of Southern Bell Telephone and Telegraph Company, Charlotte, North Carolina, testified to the increase in toll settlement revenues that the cost study settlement companies would receive if Bell's intrastate rate of return increased by one percentage point on September 1971 business.

Mr. Rudisill reviewed the method used in arriving at a 2% increase in Bell's rate of return as called for in Docket No. P-100, Sub 26. The revenue determined for September 1971 was annualized using a message basis for each company. To this amount was added back the Federal tax, state tax, and gross receipts tax so that after taxes the 2% would be left over. To get a 1% effect, the 2% effect on revenue was divided in half. Private line revenues were treated in a similar fashion.

Mr. Rudisill next described the manner in which calculations were made to show the effect of increase in revenues due to making WATS rates uniform. For these calculations the additional WATS revenue to accrue to the standard contract companies was considered. An increase in Bell's rate of return due to uniform WATS rates was determined and applied to the 1% effect determined previously since this represented 1% of each independent company's toll investment settlement base.

Under cross examination by Mr. Anderson, Mr. Rudisill listed each cost company and the amount they would receive under uniform WATS rates. From the additional gross WATS billing, Bell would receive $84,460 and the independents collectively would receive $19,364. Next, Mr. Rudisill also gave the increased intrastate message toll and private line revenue effect for each cost company due to the 1% increase in Bell's rate of return. The total for the cost companies was $2,030,115. Mr. Rudisill further explained that I-I investments had been considered in all calculations even though some cost studies furnished by the independents had not been updated after I-I settlements became effective as of July 1, 1970. Mr. Rudisill also explained the tax factors used in going from gross to net amounts.

That completed Southern Bell's portion of the testimony in the case. Next, each independent company was called upon to testify.

Barnardsville Telephone Company was allowed by the Commission to submit its testimony by affidavit.

Mr. Havens, Vice President, testified for Carolina Telephone and Telegraph Company. He stated that intrastate toll rates should be uniform for all telephone companies operating in North Carolina and that such rates could only be established in proceedings with Southern Bell.

Mr. Havens gave some figures indicating that Bell's rate of return on average intrastate investment for 1969 was 7.10% and for 12 months ending December 31, 1971, it had declined to 7.08%. Mr. Havens stated that they did not agree with Bell's method of computing the effect on toll revenues assuming a 1% increase in Bell's rate of return. He indicated that an investment basis should be used rather than a message basis as used by Bell. Mr. Havens introduced an exhibit showing calculations of a 1% change based on

investment studies rather than message studies. His results showed a revenue increase of $1,107,101 for year ending February 28, 1972, and $1,230,956 for year ending February 28, 1973. According to Mr. Rudisill's method, for year ending February 28, 1972, Carolina Telephone and Telegraph Company would receive additional revenues of $1,274,048 including private line settlement and for year ending February 28, 1973, they would receive $1,447,792. The effect of uniform WATS rates was given by Mr. Havens to be $10,941 using his method. Mr. Rudisill's method showed this figure to be $12,152.

Mr. Havens concluded by stating that all these increases discussed were theoretical and would only become factual if Bell's rate of return increased the 1% and remained at that level for 12 months.

Mr. Leftwich, Vice President and Division Manager of Central Telephone Company, asked that his letter of February 29, 1972, to the Commission be adopted as his testimony. He states in the letter that Central will not receive the projected increase in cost settlement revenues until Bell's rate of return increases 1% and remains at that level for 12 months. He also concurred with uniform toll rates.

Mr. Pickelsimer, Vice President and General Manager of Citizens Telephone Company, concurred that intrastate toll rates should be uniform. He also stated that expected higher interest rates from the REA bank would offset any additional toll revenues and was, therefore, opposed to rebates back to local service customers.

Mr. Widenhouse, Executive Vice President of Concord Telephone Company, concurred that message toll rates and WATS rates should be uniform in the State of North Carolina because of the discriminatory effect. He agreed with Bell's figures using the 1% increase in Bell's rate of return.

Mr. Morgan, General Manager of Eastern Rowan Telephone Company and Mid-Carolina Telephone Company, agreed with having uniform intrastate toll rates. As far as Mid-Carolina Telephone Company toll operations, they are an indirect company that settles with Lexington Telephone Company.

Mr. Bennett, Vice President - General Manager of Ellerbe Telephone Company, testified that since Ellerbe Telephone Company was so small, they had very little control in the matter and would concur with whatever decision the Commission reached.

Mr. Maxson, Vice President - Revenue Requirements of General Telephone Company of the Southeast, presented testimony showing that General's cost of handling intrastate toll traffic had increased at a faster pace than had the increase in toll billing, thus, warranting an increase in

toll rates. He stated that toll rates should be uniform across the State primarily to eliminate any discrimination.

Mr. Maxson indicated that before General would receive any additional toll revenue, Bell's rate of return would have to actually improve 1%. He suggested that the effect on a company of toll settlement be a matter for continuing surveillance, rather than requiring a company to adjust its local rates in advance of an anticipated improvement in toll revenue which might not occur.

Mr. Nunnally, Assistant Treasurer of Heins Telephone Company, asked that his letter of February 16, 1972, be adopted as his testimony in this case. He stated that they would concur with Bell's figures if Heins' total investment increased at the same rate as their toll traffic and if Bell's rate of return increased by 1%.

Mr. Grogan, Division Manager of Lee Telephone Company, testified to concurring with uniform toll rates. In his letter of February 25, 1972, the effect on Lee's rates of return were calculated using the estimate of the toll revenue increase as provided by Bell.

Mr. Harris, President - General Manager of Lexington Telephone Company, concurred with uniform intrastate message toll and WATS rates. Mr. Harris presented an exhibit which showed his calculations of increased message toll revenues to be the same as those given by Bell. From these revenues he subtracted the amounts due Denton Telephone Company, Reeds, Churchland and Piedmont Telephone Membership Corporation.

Mr. Hupman, President of Mebane Home Telephone Company, concurred with uniform intrastate toll rates and agreed with the toll increases given by Bell for his company.

Mr. Suther, Vice President and General Manager of Mooresville Telephone Company, had no further testimony than that given in their affidavit.

Mr. Blades, III, Vice President of Norfolk and Carolina Telephone and Telegraph Company, requested that the information furnished the Commission by letter be accepted as their testimony.

Mr. Groce, a private consultant representing North Carolina Telephone Company, indicated that they felt strongly in favor of uniform intrastate toll rates. He also stated that the company had proposed reductions in its rate case petition in certain local service rates in an amount practically offsetting the estimated toll rate increase furnished by Bell in Docket No. P-100, Sub 26. He further stated that they would consider applying the effect of this docket, No. P-100, Sub 28, to their rate case in Docket No. P-70, Sub 105.

Mr. Tucker, Assistant General Manager of North State Telephone Company, indicated concurrence with Mr. Garity's statements relative to uniform intrastate toll rates.

Mr. Jamison, Operational Vice President of Oldtown Telephone System, concurred that intrastate toll rates should be uniform. He felt that being an REA borrower, the increased cost of money would prohibit flow through of increased toll revenues to local subscribers.

Mr. Fitzgerald, of Randolph Telephone Company, presented an exhibit as testimony and concurred with Mr. Pickelsimer's testimony as related to being an REA borrower. His exhibit reflected calculations using the toll revenue increases furnished by Bell.

Saluda Mountain Telephone Company requested to be excused from the hearing. The Commission granted their request.

Mr. Freeman, President of Sandhill Telephone Company, had no testimony to offer other than that they had filed notice of publication.

Mr. Cutrell, President of Service Telephone Company, concurred with all who were in favor of the uniform toll rate structure and agreed with toll revenue increases furnished by Bell.

Mr. Trainor, District Manager of Thermal Belt Telephone Company, concurred in the cost study figures given by Southern Bell.

Mr. Bigbee, Vice President and General Manager of United Telephone Company of the Carolinas, indicated his company concurred in uniform toll rates for both WATS and message service. Mr. Bigbee stated that they disagreed slightly with the toll revenue increases given by Bell. The reasons for these differences were the same given in the P-100, Sub 26 proceeding.

Mr. Noyes, Budget Director and Finance Supervisor of Continental Telephone Service Corporation - Southeast Division, represented First Colony Telephone Company, Western Carolina Telephone Company and Westco Telephone Company. He presented exhibits showing the revenue effect of a 1% increase in Bell's intrastate rate of return on the rate of return for the combined operations of Western Carolina Telephone Company and Westco Telephone Company. For year ending February 29, 1972, their rate of return would change from 6.08% to 6.33% due to the 1% increase. For year ending February 28, 1973, the change would be from 5.82% to 6.09%. These percentages were arrived at using the revenue increases furnished by Bell. Mr. Noyes further stated that they concur in uniform intrastate toll rates for the State of North Carolina. He had no prepared information to submit on behalf of First Colony Telephone Company.

The final witness in this case was Allen J. Schock, Staff Accountant for the North Carolina Utilities Commission. Mr. Schock prepared exhibits showing the change in each company's rate of return on net investment and rate of return on equity. He used revenue increases furnished by Bell and used other necessary figures furnished by the independents in response to Docket No. P-100, Sub 26. The effect of P-100, Sub 28 was added to the P-100, Sub 26 figures. The rate base used for each company was net investment for the year ending July 31, 1971.

Mr. Hipp offered by reference to the proceedings of this case the testimony and exhibits in Docket No. P-55, Sub 681 not already offered.

FINDINGS OF FACT

(1) Applicant has toll settlement agreements with all telephone companies operating in North Carolina and has requested an increase in intrastate toll rates in an amount of approximately $5,141,000 to offset additional toll settlements to said companies if Bell's request for increased local and toll rates is granted.

(2) Applicant now settles with most of the larger connecting companies by contracts referred to as "cost" and "division of revenue" contracts. Said contracts include a provision which takes into consideration Applicant's combined intrastate rate of return on both local and toll service and, thereby, increases connecting companies' settlements whenever Applicant's local exchange service revenues increase. If only the intrastate toll rate of return is used in lieu of the combined local and toll rate of return, no additional settlements revenue would be generated unless there is a net increase in Bell's toll revenues. Settlement based upon a toll rate of return is both feasible and desirable.

(3) If wide area telephone service rates were raised for all telephone companies under the jurisdiction of the Commission to the same level of rates as are now authorized for Southern Bell, Bell would receive $84,460 annually in additional revenues and that the balance of the telephone companies as a group would receive $19,364 in additional annual revenues.

CONCLUSIONS

(1) The Commission concludes that Applicant has proposed higher intrastate toll rates in its application to offset additional connecting company settlements that would be involved if Applicant does receive an increase in rates, be it an increase in local, toll or a combination of local and toll rates. The Commission further concludes that the toll users throughout the State of North Carolina should not be penalized just because Applicant's rates are increased to its own local exchange subscribers.

(2) The Commission concludes that toll settlement contracts between Applicant and its connecting companies in North Carolina settling on a "cost" or "division of revenue" basis should be revised to incorporate a provision that the present combined intrastate local and toll rate of return be restricted to intrastate toll rate of return and, thereby, in effect remove the connecting companies from a partnership with Applicant in its local service operations and restrict the partnership to toll operations only.

(3) It is further concluded by the Commission that uniform wide area telephone service rates in North Carolina are equitable and in the public interest.

(4) It is further concluded by the Commission that wide area telephone service rates should be set uniformly at the current rates as now authorized for Southern Bell, and that if Bell is allowed any increase in its application for increased revenues in Docket No. P-55, Sub 681 a credit of $84,460 from this proceeding should be deducted therefrom.

[SEE ERRATA ORDER, P-100, Sub 28 dated July 3, 1972]

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That Applicant shall renegotiate all cost and division of revenue toll settlement contracts with connecting companies in North Carolina now being settled on a combined local and toll rate of return to a toll rate of return only to be effective January 1, 1973.

(2) That Applicant shall report to the Commission the progress made in renegotiating contracts as covered in the preceding Ordering Clause sixty (60) days from the date of this Order and each sixty (60) days thereafter until all said contracts have been renegotiated to a toll rate of return only.

(3) That the request for increased intrastate toll rates in this proceeding is hereby denied.

(4) That all telephone companies under the jurisdiction of the Commission shall take steps to place into effect intrastate wide area telephone service rates equal to those heretofore approved for Southern Bell in Docket No. P-55, Sub 650 and attached hereto in Appendix "A" effective July 1, 1972.

(5) That all telephone companies under the jurisdiction of the Commission offering intrastate wide area telephone service only.

(3) That the request for increased intrastate toll rates in this proceeding is hereby denied.

(4) That all telephone companies under the jurisdiction of the Commission shall take steps to place into effect

intrastate wide area telephone service rates equal to those heretofore approved for Southern Bell in Docket No. P-55, Sub 650 and attached hereto in Appendix "A" effective with bills rendered on or after the next billing date or dates five days following the release of this Order.

(5) That all telephone companies under the jurisdiction of the Commission offering intrastate wide area telephone service shall file necessary revised wide area telephone service tariffs reflecting the rates as shown on Appendix "A" attached, to be effective as of the dates prescribed above.

(6) That all of the wide area telephone service tariffs now under suspension in this Docket are hereby cancelled.

(7) That a sum of $84,460 resulting from uniform wide area telephone service rates be credited to any additional revenue the Commission may grant in Docket No. P-55, Sub 681.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of June, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
INTRASTATE WIDE AREA TELEPHONE SERVICE (WATS) RATES
DOCKET NO. P-100, SUB 28

Full time service, per month	$550.00
Measured time service:	
Initial period, per month:	
Ten hours	$200.00
Additional hour:	
First five, each	$ 15.00
Each additional	$ 13.00

DOCKET NO. P-100, SUB 28

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Intrastate Toll Rates and Charges of all Telephone Companies under the Jurisdiction of the North Carolina Utilities Commission	))))	ORDER CORRECTING ERRORS

BY THE COMMISSION: It appearing to the Commission that clerical error occasioned certain misstatements and errors in the ordering paragraphs of its order dated June 30, 1972, in this docket and the Commission being of the opinion and concludes that the ordering paragraphs herein should be

stricken in their entirety and the ordering paragraphs herein contained be substituted therefor.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That the ordering paragraphs in the Commission's order dated June 30, 1972, in Docket No. P-100, Sub 28 be, and the same are, hereby stricken in their entirety; and that the following ordering paragraphs be, and the same are hereby, substituted therefor:

"ORDER

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That Applicant shall renegotiate all cost and division of revenue toll settlement contracts with connecting companies in North Carolina now being settled on a combined local and toll rate of return to a toll rate of return only to be effective January 1, 1973.

(2) That Applicant shall report to the Commission the progress made in renegotiating contracts as covered in the preceding Ordering Clause sixty (60) days from the date of this Order and each sixty (60) days thereafter until all said contracts have been renegotiated to a toll rate of return only.

(3) That the request for increased intrastate toll rates in this proceeding is hereby denied.

(4) That all telephone companies under the jurisdiction of the Commission shall take steps to place into effect intrastate wide area telephone service rates equal to those heretofore approved for Southern Bell in Docket No. P-55, Sub 650 and attached hereto in Appendix "A" effective with bills rendered on or after the next billing date or dates five days following the release of this Order.

(5) That all telephone companies under the jurisdiction of the Commission offering intrastate wide area telephone service shall file necessary revised wide area telephone service tariffs reflecting the rates as shown on Appendix "A" attached, to be effective as of the dates prescribed above.

(6) That all of the wide area telephone service tariffs now under suspension in this Docket are hereby cancelled.

(7) That a sum of $84,460 resulting from uniform wide area telephone service rates be credited to any additional revenue the Commission may grant in Docket No. P-55, Sub 681."

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of July, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 203

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Power & Light Company for a 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 in Southwestern Wake County, North Carolina (Shearon Harris Nuclear Electric Generating Plant).	)	ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on November 23, 1971, and November 24, 1971

BEFORE: Chairman H. T. Westcott, Presiding; Commissioners John W. McDevitt, Marvin R. Wooten, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

Sherwood H. Smith, Jr., Esquire
Charles D. Barham, Jr., Esquire
Carolina Power & Light Company
P. O. Box 1551, Raleigh, North Carolina 27602

For the Intervenor:

Thomas B. Anderson, Jr., Esquire
Thomas F. Loflin, III, Esquire
Loflin, Anderson, and Loflin
P. O. Box 1315, Durham, North Carolina
For: Conservation Council of North Carolina

For the Commission's Staff:

Edward B. Hipp, Esquire
Commission Attorney
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: This proceeding was instituted on August 23, 1971, by the filing of application by Carolina Power & Light Company (CP&L) for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct new generating capacity identified as the Shearon Harris Nuclear Electric Generating Plant on a site in Southwestern Wake and Southeastern Chatham Counties. By Order of the Commission dated September 10, 1971, Notice of the application was required to be published in newspapers of general circulation in Wake and Chatham Counties. On September 10, 1971, the Commission, on its own motion,

issued an Order setting public hearing on the application for November 23 and 24, 1971, in the Commission Hearing Room, Raleigh, North Carolina. The Order further stated that CP&L would have the burden of proof to support its application by testimony of qualified witnesses together with exhibits and data and to establish for the record through competent testimony and evidence justification for the proposed plant from economic, power supply requirements, reliability, and environmental viewpoints.

Under the application for a Certificate of Public Convenience and Necessity, CP&L proposes to construct four nuclear fueled steam-electric generating units each with an initial capability of 900 megawatts on an 18,000 acre site in Southwestern Wake and Southeastern Chatham Counties approximately 20 miles Southwest of Raleigh, North Carolina. The nuclear steam supply systems will be of the pressurized water type and the output of the generating units will be delivered through step-up transformers to Applicant's transmission system. The first unit is scheduled to be placed in service in March 1977; the second unit in March 1978; the third unit in March 1979; and the fourth unit in March 1980.

On November 12, 1971, Petition to Intervene was filed with the Commission by the Conservation Council of North Carolina, Box 5065, Greensboro, North Carolina. The Commission issued its Order on November 17, 1971, allowing this Intervention.

Public hearings were held in the Commission Hearing Room, Raleigh, North Carolina, on November 23 and 24, 1971, with counsel for all parties appearing and participating as shown heretofore. The Applicant offered testimony and exhibits of its witnesses, Mr. Wilson W. Morgan, Manager of System Planning, Carolina Power & Light Company, and Mr. Patrick W. Howe, Manager of Environmental and Technical Services, Carolina Power & Light Company. The Commission Staff through cooperation with the Department of Natural and Economic Resources, the State Board of Health and North Carolina State University offered testimony and exhibits of its witnesses, Dr. Arthur W. Cooper, Assistant Secretary for Resource Management, Department of Natural and Economic Resources; Mr. Darwin L. Coburn, Chief of Water Quality Division of the Department of Water and Air Resources; Dr. Thomas S. Elleman, Professor of Nuclear Engineering, North Carolina State University; Dr. Raymond L. Murray, Head, Nuclear Engineering Department, North Carolina State University; and Mr. Dayne H. Brown, Chief, Radiological Health Section, Sanitary Engineering Division, North Carolina State Board of Health. Public witnesses offering testimony were Mr. Jerome Kohl, Mr. Bobby W. Poe, Mr. Woodrow Goodwin, Mr. Michael Alford, Mr. Wallace Womble, Mr. James A. Stephens, Dr. Marvin Moss, Mrs. Joyce Anderson, Mr. Eugene Eagle, Jr., and Mr. Robert Dodge.

TESTIMONY OF APPLICANT'S WITNESSES

Mr. Wilson W. Morgan: Mr. Wilson W. Morgan, Manager of System Planning, Carolina Power & Light Company, testified and offered evidence as to the economic justification, system reliability and power supply requirements of the proposed Shearon Harris Nuclear Electric Generating Plant (sometimes referred to hereinafter as the "Harris Plant").

Mr. Morgan testified substantially as follows:

In reference to system reliability and plant necessity, while the average use of electricity nationally has doubled in the last ten years, electrical demand on the CP&L system has doubled in the last six years, and Company load forecasts predict that the system peak demand for 1977 will be more than double the peak demand of 1970. The annual peak load increased from 1,749 megawatts in 1964 to 3,484 megawatts in 1970, an average annual growth rate of 12.2%, and the peak load is expected to increase to 9,912 megawatts in 1980, a ten-year average annual increase of 11%. A reserve margin of approximately 18% is considered desirable for the Company's system to provide reliable service. If each of the four units of the proposed Harris Plant are placed in service on the schedule proposed by the Company, the Company's reserve margins will be 22.2% in 1977; 21.4% in 1978; 19.7% in 1979; and 16.4% in 1980; however, without the additional capacity of the proposed Harris Plant, the Company's reserve margins would be 9.9% in 1977, and in 1978 through 1980 the Company would not have available generating sources sufficient to meet its loads. A one-year delay in each of the Harris unit schedules would yield reserve margins of 10.3% in 1978; 9.7% in 1979; and 7.3% in 1980.

The proposed plant site is advantageously located between three of the Company's largest load centers and can readily be integrated into the Company's 230 kilovolt (KV) transmission network. Future plans call for the construction of a 500 KV transmission line from the Wake Substation to the Richmond Substation routed through the proposed Harris site to give the Company a strong 500 KV transmission backbone. In the event of a loss of capacity at the Harris Plant, all of these transmission circuits would combine to form alternate sources for transmitting the power to meet the Company's loads, either from the Company's own generation or from neighboring systems.

The Company made a cost study to compare the economics of generation from either a fossil fueled or nuclear fueled steam electric generating plant. The components of generation costs used in this study included fixed charges on investment, operation and maintenance, fuel, and insurance.

The study indicated that the lower fuel cost of the nuclear plant more than offsets the higher plant cost and

heat rate of the nuclear plant. A nuclear fueled plant represents an annual cost advantage of $10.12 per kilowatt over a coal fueled plant and $7.50 per kilowatt over an oil fueled plant. The capitalized value of this cost advantage for a four unit, 3,600 megawatt nuclear fueled plant was estimated to be $249,534,000 when compared to a similar size coal fueled plant, and $184,932,000 when compared to a similar size oil fueled plant. To be competitive with nuclear fuel, coal would have to be available in future years at a levelized cost of 34.82 cents per million BTU and oil would have to be available in future years at a levelized cost of 42.82 cents per million BTU.

The proposed Harris Plant is estimated to cost $1,107,289,000, including site and lake development, plant construction, initial fuel for each unit, and an allowance for escalation or inflation until the plant is completed. Excluding site related costs which were not considered in the fossil versus nuclear study, the projected cost for the Harris Plant is almost the same as that developed in the fossil versus nuclear study in terms of annual cost per kilowatt for energy generation. The Company filed a late exhibit showing a breakdown of the $1,107,289,000 estimated plant cost by Federal Power Commission account and sub-account numbers.

Mr. Morgan summarized his testimony by stating:

"The generation proposed for the Shearon Harris Nuclear Power Plant is required as scheduled to provide reliable electric service to the public in the CP&L service area; and the proposed plant at the site selected is the most economical and reliable electric generation which the Company could install to serve its forecast load and provide an adequate margin of reserve."

On cross-examination, and in response to questions from the Bench, Mr. Morgan testified substantially as follows:

The complete method of load forecasting now in use by the Company is new and thereby, has not been available for comparison of forecast to actual results. Many 115 KV transmission lines would be converted to 230 KV by constructing new "H" frame towers and conductors in old 115 KV rights-of-way. The Harris Plant will achieve the 80% plant capacity factor used in the nuclear-fossil economic studies even though the highest predicted plant capacity factor for CP&L in 1972 is 70%.

Several sites were considered and the Company considered the proposed site as the best. By 1980 approximately 50% of CP&L's generating capacity will be nuclear powered. The predicted unit cost of nuclear fuel is constantly below the predicted fossil fuel cost for the next ten years. The lake is adequate to support generation capacity in addition to the Harris Plant.

The nuclear steam supply system for the proposed plant is to be supplied by Westinghouse under a contract that has been consummated and completed. The proposed 3,600 MW plant equals about 80% of the Company's present total system capacity. The estimates given in the Company nuclear versus fossil study reflect the Westinghouse contract prices. The $1,050,000,000 or $276 per kilowatt estimate for the proposed plant excludes fuel cost, but includes the Westinghouse contract costs and escalation factors. This $1,050,000,000 is presently the best Company estimate of the project cost.

Sites were under consideration as possible generation plant sites several years before CP&L entered into contract in the Spring of 1971 with Westinghouse for the nuclear steam supply system for the proposed plant.

The Company is presently initiating studies for the early 1980's. The lead time for approval and construction of nuclear facilities has extended until seven or eight years are needed from the time of the final decision to install capacity to the in-service date of that capacity.

Mr. Patrick W. Howe: Mr. Patrick W. Howe, Manager of Environmental and Technical Services, Carolina Power & Light Company, testified and offered evidence as to the location, description, environmental effects, safety and reliability of the proposed Harris Plant and site.

Mr. Howe testified substantially as follows:

The proposed site is located on about 18,000 acres of land in Southwestern Wake County and part of adjoining Chatham County about 20 miles Southwest of the City of Raleigh and 15 miles Northeast of the Town of Sanford. The proposed site will consist of a large main reservoir with a surface area of 10,050 acres of water impounded at a normal water level of 250 feet above mean sea level by a dam on Buckhorn Creek near Corinth; an afterbay reservoir with a surface area of 450 acres of water impounded at a normal water level of 199 feet above mean sea level by a dam near the mouth of Buckhorn Creek; and a nuclear power plant in the vicinity of Bonsal in Wake County. The cooling reservoir will be supplemented from the Cape Fear River when the evaporative losses of the reservoir exceed the drainage into the reservoir, provided that the flow in the Cape Fear River is not lowered below 200 cubic feet per second (cfs). The land for the exclusion area, the dams, dikes, channels, relocation of roads and railroads, and the land required to handle an inflow resulting from the probable maximum flooding conditions, i.e., 260 feet above mean sea level, in addition to the cooling reservoirs and plant site is included in the approximate 18,000 acre site.

The "exclusion area" is the area surrounding the reactor in which the reactor licensee has the authority to determine all activities including exclusion or removal of personnel

and property from the area; and for the proposed Harris Plant, the radius of the exclusion area has been established to be 7,000 feet. The "low population zone" is the area immediately surrounding the exclusion area which contains residents, the total number and density of which are such that there is a reasonable probability that appropriate protective measures can be taken in their behalf if an accident were to occur in the plant; and the low population zone for the Harris Plant is proposed as 3 miles, including less than 505 persons based on the 1970 census.

The four units of the proposed plant will have separate turbine generators, nuclear steam supply systems, and containment buildings while Units 1 and 2 and Units 3 and 4 will share two waste disposal systems and all four units will share one fuel handling system. The units will be pressurized water reactors with three closed reactor coolant loops, similar to other units under construction or operating, including the Company's Robinson Unit No. 2.

In regard to the future availability of nuclear fuel, an Atomic Energy Commission (AEC) analysis of reasonably assured and estimated reserves indicates that there are approximately 1.07 million tons of uranium available at a price under $10.00 per pound and 1.6 million tons at a price under $15.00 per pound. The cumulative requirements for the nuclear industry through 1985 are projected to be 0.45 million tons. An adequate supply of reasonably priced nuclear fuel should be available during the expected life of the Harris units because of the anticipated discovery of more domestic reserves, the availability of discovered and undiscovered foreign reserves, the improvement in the current utilization of uranium, the utilization of thorium, the utilization of plutonium in light water reactors and the introduction of the fast breeder reactor.

In regard to the disposal of radioactive wastes, for the most part radioactive materials will be contained within the fuel elements in the reactor vessel and any radioactive materials which escape from the fuel or are activated within the reactor will be contained in the reactor coolant which will be a completely enclosed system housed within the containment building. Gaseous and liquid radioactive materials will be removed from the reactor coolant under controlled conditions and any small quantities of radioactive materials that escape the reactor coolant through leakage will be contained and processed through various waste processing systems to limit the radioactivity in effluents from the plant to a minimum. The plant radioactive wastes will be recycled, filtered, stored, concentrated, and reduced to small quantities that can be contained for extended periods and ultimately shipped to a licensed waste disposal facility, probably the Chem Nuclear Company in Barnwell, South Carolina, or the Nuclear Engineering Company in Morehead, Kentucky. The radioactive effluent from the proposed Harris Plant will be well within the limits set forth in the Code of Federal Regulations.

In regard to licenses and permits required for the construction and operation of the Harris Plant, at least eight major permits, licenses or approvals, including a Construction Permit from the AEC, a Certificate of Public Convenience and Necessity from the North Carolina Utilities Commission, a Waste Water Discharge Permit from the North Carolina Board of Water and Air Resources, a Waste Water Discharge Permit from the U. S. Army Corps of Engineers, a Lake Construction and Impoundant Permit from the North Carolina Board of Health, the Approval of Road Relocations by the County Commissioners and the North Carolina Highway Commission, a Permit to obstruct navigable airways from the Federal Aviation Agency and a Facility Operating License from the AEC are required. Applications will be submitted for those permits and licenses for which applications have not already been made as plans for the project are developed and as the construction schedule requires.

In regard to the environmental justification of the proposed site location, the area is rural and sparsely populated, with the proposed development of the 18,000 acre site relocating only 50 families. All major highways and railroads in the area will be either unaffected or relocated to provide continuity of service and no private property owners will be denied access to their property. There are no active faults in the area and the nearest fault, inactive for over 125 million years, is about four miles from the plant area. Five other possible areas in addition to the proposed Harris Plant Site were considered but of the sites considered, the Harris site involved the least number of conflicts with existing land uses and the minimal relocation of people.

In regard to thermal discharges from the proposed Harris Plant, under normal operating conditions, the plant would require 2,520,000 gallons per minute of cooling water. Under full load conditions the temperature of the water would be raised by 20° to 25° F in passing through the various sections of the reservoir. Under the most adverse 5-day meteorological conditions on record, the water would be cooled to within 1° F of the equilibrium temperature at the point of discharge from the afterbay reservoir.

On cross-examination, Mr. Howe testified substantially as follows:

The mean flow of the Cape Fear River at Buckhorn Dam for the past 22 years has been above the 200 cfs minimum water withdrawal requirement; however, the New Hope Reservoir could affect the flow of the Cape Fear River, but the flow would not be reduced significantly enough to threaten the 200 cfs threshold. There are no controls on the future influx of people into the low population zone; however, any increase in population due to the reservoir becoming a recreation area will be in a transitory nature. In regard to the Emergency Core Cooling System (ECCS) tests performed by the Idaho Nuclear Corporation, tests were performed on a

semi-scale model which had a number of dissimilarities to the pressurized water system designed for the Harris Plant. The Company is factoring into the design of the Harris Plant ECCS a broad variety of recent ECCS tests. The Company can offer full assurance that emergency core cooling systems will prevent serious fuel deformation, serious clad rupture, and will not constitute any jeopardy to the public health and safety. If the highly improbable situation occurred in which all engineered redundancies failed and the core melted, then the molten core would melt through the bottom of the reactor and into the earth.

No one has intentionally had a loss of coolant accident to test the ECCS but numerous full scale simulations have been performed and Mr. Howe "is confident" that the ECCS will work. Under five-day adverse meteorological conditions, the circulating water temperature would be 111° F as it left the plant, 95° F as it passed a point nearest the main dam (approximately 0.6 miles) and 91° when it re-entered the plant. On an average day in July, the circulating water would leave the plant at 105° F and re-enter the plant at 85.2° F. The Company has an aggregate of $560,000,000 liability insurance for the Harris Plant.

TESTIMONY OF WITNESSES
PRESENTED BY COMMISSION STAFF

Dr. Arthur Cooper: Dr. Arthur Cooper, Assistant Secretary for Resource Management, North Carolina Department of Natural and Economic Resources, testified substantially as follows:

The responsibilities of the Department of Natural and Economic Resources relate to water and air resources, wildlife, forestry and recreation. The Department will exercise its statutory powers to the utmost extent possible to insure that the proposed facility will be compatible with its environmental setting, will be constructed with a minimum destruction of natural resources and will pose no undue environmental hazards. The Department has not had the opportunity to review and approve the Company's proposal for environmental control measures and the Department of Water and Air Resources has not made positive certification with respect to the Company's compliance with applicable State Statutes; however, in conferences with Company officials, the Department has been assured that the Company will comply with all environmental control requirements. The Department will urge that CP&L utilize land adjacent to the impoundment for forestry purposes inasmuch as the impoundment will destroy some productive forest areas and that CP&L develop a master plan for recreation on the reservoir.

The following points were among those brought out in Mr. Loflin's cross-examination of Dr. Cooper:

The Department of Natural and Economic Resources does not possess statutory authority to require CP&L to enhance

wildlife resources, to use adjacent lands for forestry purposes, or to develop a master recreation plan. The only studies on the impact of the environment of this project that the Department has reviewed came from CP&L.

The following point was brought out in Mr. Smith's cross-examination of Dr. Cooper:

The Department has witnessed no indication that CP&L would not do everything that it is required to do with any agency with which it may be in contact concerning the proposed Harris Plant.

Dr. Thomas S. Elleman: Dr. Thomas S. Elleman, Nuclear Engineering Professor, North Carolina State University, testified on the general area of reactor safety and the experience with nuclear power which has been gained in this country over the past several years.

Dr. Elleman testified substantially as follows:

Nuclear-electric generated power is growing at an extremely rapid rate with twenty nuclear plants in operation and over one hundred more in the planning or construction stage. This rapid growth and the fact that nuclear reactors represent a relatively new and unknown source of energy has resulted in a reaction by various groups around the country against the continuing expansion of nuclear power. This public concern has properly served to increase interest in plant safety, but there are far too many instances when emotional, rather than factual, arguments are used to oppose plant construction.

The two major questions of public concern are: "(1) Are nuclear plants safe?" and "(2) Do the radiation levels which are produced by an operating nuclear power plant constitute a potential hazard to the general public?"

In regard to nuclear plant safety, the standards which have been applied to nuclear design, quality control and general safety have far exceeded those of almost every other industry, resulting in a nuclear industry which has an outstanding safety record. There is no documented instance of harm to a member of the general public as a consequence of a nuclear plant accident. From the initial request for construction through the issuance of a final operating license, a nuclear reactor power plant is subject to a thorough program of nuclear safety review. The AEC, Government Laboratories and industry review in detail the design features of a plant to insure that the plant is safely designed and that adequate safety systems are present to forestall any conceivable emergency. The burden for demonstrating plant safety is placed on the power company and its contractor. The approach to safety is the consideration of the various accidents which could occur with a nuclear plant and the inclusion of adequate redundant safety systems to prevent these accidents. The concept of

redundant safety systems requires that separate safety channels which operate completely independently of each other be included to handle each potential problem in order that failure of any one system can be backed up by a separate and distinct system. Safety is and always has been a prime consideration in the plant design and operation. There are, however, legitimate safety concerns with nuclear plants and considerable effort is being expended in national and industrial laboratories to obtain as much information as possible on these potential problems.

The following are examples of these problems:

(1) Too little reactor operating experience to prove that the probability of a serious accident is extremely small;

(2) Questions concerning the efficiency of the emergency core-cooling systems and the likely accelerated Government research in this area;

(3) Problems concerning the processing, handling and storing of reactor wastes; and

(4) Insufficient experience to completely evaluate the procedures employed during reprocessing of spent reactor cores.

However, Dr. Elleman stated, "All of these problems seem to have reasonable technical solutions, and I personally believe that acceptable solutions can be found.", and "I personally regard nuclear plants as both safe and desirable, once it has been established that a real need for the electricity exists."

In regard to radiation levels produced by nuclear power plants, the levels of radioactivity which are permitted are in the Code of Federal Regulations 10-CFR-20. These maximum allowable concentrations derive from guidelines developed by the National Committee of Radiation Protection which reviewed all available data on radiation effects on biological systems and arrived at a concensus on the radiation levels, with suitable safety margins, which carry a negligible probability of an adverse effect.

While the AEC and scientific radiation protection groups regard these levels as safe, the AEC has requested that radioactivity levels be kept as low as is practicable and in June 1971 the AEC proposed an amendment to 10-CFR-50 which lowers the acceptable exposure level of radioactivity by a factor of more than one hundred. Under the new guidelines, maximum exposure to an individual would be no more than 5 millirems (mrem) per year and the average exposure to large population groups would be less than one mrem per year. This exposure compares to a typical chest x-ray which can give an exposure of 150 mrem, to the typical exposure from the natural background radiation in the Raleigh, North Carolina, area of 125 mrem per year, to a 20 mrem per year

exposure from the naturally occurring potassium (K Exp40) in the body, and to regions in the world where annual exposures from natural radioactivity are in excess of 1,000 mrem per year. Dr. Elleman stated, "It is my personal conviction that nuclear plants provide acceptable radiation levels for the general public and adequate safety margins for operation. I regard them as a more satisfactory source of electric power than coal-fired steam generators which emit undesirable gases and consume valuable natural resources."

Dr. Elleman summarized his testimony and opinions by stating, "As a citizen I am concerned that rapid and uncontrolled expansion of electric generating plants is not in the best long-term interest of our country. I believe that there is a strong need for a group which will develop growth objectives for both our immediate area and the State and will seek means for implementing these objectives. However, once it has been clearly established that an electric generating plant is needed, then I regard a nuclear power plant as both the safer and cleaner alternative to a conventional steam generating plant."

The following points were among those brought out in Mr. Loflin's cross-examination of Dr. Elleman:

The redundant safety systems have been modeled with typical models and presented in computer programs which simulate the system and related experiments that can be checked have been tested against these models.

It has not, in all cases, been possible to test the systems under an operational model. In a hypothetical case of a complete failure of the primary coolant line and complete failure of the emergency coolant system so that no cooling water gets to the core, the fuel inventory would begin to heat, fuel rods would distort and eventually melt to the bottom of the reactor vessel. The AEC limits the exposure levels in the event of a core meltdown accident to approximately 256 mrem total body exposure and 200 mrem thyroid exposure. The Safety Analysis Reports for nuclear plants report levels for core meltdown accident analysis below the AEC quidelines. These exposure levels would produce "detectable genetic changes" if large populations (tens of thousands) were exposed. No adverse effect would be detected in an individual if relatively few people (several thousand) were exposed.

There could possibly be a break in the containment vessel during this hypothetical situation if no additional cooling was experienced.

The Idaho tests were conducted on a 13-inch diameter simulation of a reactor and the model is too dissimilar from a large operative reactor to extrapolate the five test failures. The best tests of the ECCS are the large scale mock-up tests which have been conducted in larger facilities.

The WASH 740 report by the AEC in 1957 predicts radiation releases that would produce substantial hazard to the public; however, the initial assumptions in the analysis are not true of an actual operating plant. Furthermore, the releases assumed are believed to be far higher than what one would get from an actual nuclear plant under the same assumptions.

Nuclear reactors have not been operated long enough throughout the country to really make a prediction on the frequency of nuclear accidents. The likelihood of conditions resulting in extreme fission product releases are so infinitesimally small that it is not regarded as hazardous to the public of North Carolina. Dr. Elleman stated, "I would personally be happy to live next door to a nuclear plant. I would prefer this to many other plants one might have."

A minority of respected scientists in the nuclear profession believe the present generation of nuclear reactors is unsafe. The levels of radioactive releases allowed by the new AEC guidelines are acceptable to most individuals in disagreement with the level acceptable under 10-CFR-20.

Uncontrolled expansion of industry in the state could result in pollution of our natural resources. The pollution would come mainly from the influx of other industries regardless of the electric generating source.

Dr. Raymond L. Murray: Dr. Raymond L. Murray, Head, Department of Nuclear Engineering, North Carolina State University, testified substantially as follows:

The rate of consumption of oil, natural gas and coal has increased tremendously. By the middle of the next century, the exhaustion of fossil fuels will be in sight. The application of nuclear fuels will relieve the pressure on fossil fuels. The United States should and must establish an energy policy that encourages use of energy in its electrical form, and that involves nuclear fuel as the primary source of energy. The present day converter reactors are wasteful in comparison with the breeder reactor; however, the converters produce raw material and fuel necessary for use in the breeder reactor. Also, the experience in manufacturing and operation of the present-day converter reactors will be of direct benefit in the breeder program.

The gaining of experience and making maximum use of uranium resources and conserving fossil fuel resources would appear to be a very wise move.

Mr. Dayne H. Brown: Mr. Dayne H. Brown, Chief of the Radiological Health Section, Sanitary Engineering Division, North Carolina State Board of Health, testified substantially as follows:

The North Carolina State Board of Health's interest in the Shearon Harris Nuclear Power Plant arises from its environmental health responsibilities concerning raw water for public water supplies, vector control and radiation protection. No permits and/or approvals have been issued at this time. However, prior to the impoundment of Buckhorn Creek waters, the following two items must be resolved.

(1) Assurance must be given to the State Board of Health that the discharge from the proposed lakes will not adversely affect the Cape Fear River as a source for public water supplies located downstream; and

(2) The Carolina Power & Light Company (CP&L) must apply for and receive a State Board of Health permit to impound water. The permit application shall assure compliance with the impounded water regulations of the State Board of Health.

The State Board of Health does not have regulatory jurisdiction over the on-site operation of nuclear reactors, but it does have jurisdiction off-site with a significant interest and responsibility for the radiological health and safety of North Carolinians living in the area of influence of nuclear reactors.

During the review process and prior to the operation of the Shearon Harris Nuclear Power Plant, the Board of Health will work toward the following objectives:

To insure that the plant will be operated without endangering the radiological health and safety of North Carolina citizens;

To insure that CP&L's preoperational and operational radiation surveillance programs are adequate;

To arrange for routine State Board of Health review of plant radioactive effluent and environmental surveillance data and reports;

To arrange means for the State Board of Health to confirm the validity of CP&L's environmental sample analyses;

To assist CP&L in developing an emergency plan which will cope with any accident involving release or threatened release to the environment of hazardous quantities of radioactivity; and

To arrange for routine State Board of Health notification of abnormal occurrences involving radiation protection.

If the matters previously cited which pertain to State Board of Health responsibilities can be satisfactorily resolved, the State Board of Health will not oppose the construction and operation of this plant at the proposed site in Wake County, North Carolina.

The following are among the points brought out in Mr. Loflin's cross-examination of Mr. Brown:

The State Board of Health does not have statutory authority to direct CP&L's activities concerning the Harris Plant. The State Board of Health has no formal position on the proposed plant presently, but construction of the plant will not be opposed if the previously cited matters can be resolved.

TESTIMONY OF PUBLIC WITNESSES

The following were among the points brought out by the public witnesses:

Professor Jerome Kohl testified that the growth rate of electrical demand doubling every seven years must at some point in the relatively near future decrease, or the ability to meet this demand will fail either financially or physically.

Area property owners objected to the plant for reasons including potential danger, the large number of acres of farm and woodland to be destroyed in addition to the land destroyed by the nearby New Hope Dam project, land procurement practices and prices offered by CP&L, the amount of requirements so established, and the amount of water to be used by the plant.

Dr. Marvin Moss indicated that the large number of people located nearby would seem to counteract the low probability of accidents by the potential exposure of such a large number of people to danger.

Based upon the entire record of this proceeding, the Commission makes the following

FINDINGS OF FACT

1. That Carolina Power & Light 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. That the Company's annual peak load was 3,484 megawatts in 1970 and is projected to be 9,912 MW in 1980, a ten-year average annual increase of 11%. Based on the 12.2% average annual increase experienced for the last six years, said projection is found to be reasonable.

3. That a reserve margin in generating capacity of approximately 18% is considered desirable for the Company's system to provide adequate and reliable service.

4. That if each of the four units of the proposed Harris Plant is placed in service on the schedule proposed by the Company, the Company's reserve margins will be 22.2% in 1977; 21.4% in 1978; 19.7% in 1979; and 16.4% in 1980; however, without the additional capacity of the proposed Harris Plant, the Company's reserve margin would be 9.9% in 1977 and in 1978 through 1980 the Company would not have available generating sources sufficient to meet its loads.

5. That the capitalized cost advantage for a 3,600 MWe nuclear plant, including predicted price escalation information for a 20-year period, is $249,534,000 when compared to a coal-fueled plant and $184,932,000 when compared to an oil-fueled plant.

6. That the proposed Harris Nuclear Units of 900 MW each are pressurized water reactors very similar in design to Beaver Valley I of Duquesne Light Company and North Anna Units 1 and 2 of Virginia Electric and Power Company which were recently granted construction permits by the AEC; that a similar unit, H. B. Robinson No. 2, is presently in operation by the Company; that the estimated construction cost of the Harris Plant and cooling reservoir is $1,011,600,000 with initial loads of fuel at a cost of $95,689,000; that based on all considerations, economic as well as environmental, there is no other alternate fuel for generation or site location more suitable than those chosen for the Harris Plant; that CP&L will not be able to adequately serve its certificated area if the total amount of power proposed to be supplied by the Harris Plant is not available by the latter 1970's; that CP&L has the financial ability to pay for the construction and installation of the proposed units.

7. That the Atomic Energy Commission has primary responsibility in ensuring public safety from radiation exposure generally as affected by the design and operation of the proposed nuclear plant. An application for a construction permit is now pending before the AEC, but the AEC has not yet held hearings or granted a permit authorizing construction of the proposed plant.

8. That in regard to the normal planned releases or radioactive effluents, the State Board of Health assures that these releases will result in environmental concentrations well below the limits established by the Federal Radiation Council for protection of the public; that to insure that these limits are maintained, the State Board of Health will conduct on-going and independent radiation surveillance programs around the proposed facility; and the Commission finds that the project meets all safety requirements so established.

9. That the Department of Water and Air Resources, through its agreement with the U. S. Environmental Protection Agency, has primary responsibility over the use and/or pollution of the water and air resources generally of

the State; that said Department will study the environmental effects of the proposed Harris Plant and cooling reservoir and will issue permits authorizing the use of cooling water in the plant's operation as outlined in the application only when the project meets all environmental requirements so established.

10. That while the AEC, the State Board of Health, and the Department of Water and Air Resources, have primary jurisdiction in the establishment, review, and surveillance of the design and operation of the proposed plant as it might affect the public from radiation exposure and as it might affect the water and air resources of the State, the Utilities Commission retains the over-all responsibility of determining whether Public Convenience and Necessity is to be served by construction and operation of the Harris Plant.

11. That the record reflects the safety of the plant design. The emergency core-cooling system and other emergency safety systems have not been subjected to fully operational tests but have been modeled and tested with computer codes which indicate the design of the plant is safe and presents no substantial hazard to the public. The Atomic Energy Commission will conduct a full review of the plant safety systems and has direct authority for setting of safety standards in plant design.

12. The public convenience and necessity requires the construction of the proposed generation facility described in the application.

CONCLUSIONS

The Commission concludes that public convenience and necessity requires construction and installation by the Company of the new generating capacity hereinafter described, subject to compliance with all design and safety standards which may be imposed by the AEC or the State Board of Health in regard to protection of the public from radiation exposure, and by the North Carolina Department of Water and Air Resources for protection of the environment.

In arriving at this conclusion, the Commission has considered the testimony and evidence offered by experts from the Company, North Carolina State University, the State Board of Health, and the Department of Water and Air Resources and the responsibility delegated by Law to the AEC in the areas of protection of the public from radiation hazards. Considering the evidence presented and based on the radiation limitations set by the Federal Radiation Council and administered by the AEC and the State Board of Health, the Commission concludes that the proposed Harris Nuclear Plant will not have any significant adverse effects on its environs and that, conversely, it will emit much less volume of gases and particulate matter than similar sized coal-fueled steam plants.

The Commission also considered, in arriving at its conclusions, the Company's projected power requirements for 1977 through 1980 and we have concluded that growth of power use in the Company's service area will continue at such a rate that the units will be required by 1977 through 1980 and that the Company should proceed to design and construct these units as planned in the application. The Commission concludes that, based on current fuel cost and cost considerations as developed in this record, these proposed units are the most economical and dependable type of generating units the Company can provide to meet its expected growth in demand, and that the site chosen is the most suitable from an economic and environmental standpoint.

The Commission further concludes that it will retain overall jurisdiction over the design of the plant, as well as its operation, and will require the backfitting of technological advancements, as they become available, that provide reasonable additional protection necessary for the public health and safety or protection of the environment.

The Commission has considered the full impact of the timing involved in this proceeding. At the time of the hearing, CP&L had already chosen its proposed site, and had placed orders for major portions of the generation system. In addition, CP&L had purchased a substantial portion of the land necessary for the construction of the proposed generation facility, some portions of these lands having been purchased before announcement of the proposed project.

Furthermore, considering the long lead time necessary for the careful construction of a modern generation facility, CP&L has applied for its Certificate for the Harris Plant so late in the planning schedule as to bring the question of jeopardy of future power supply integrity into play should the Commission desire further information, or reject the application completely. The Commission concludes that similar actions may at some time in the future place the Commission in the untenable position of being forced to approve a facility in order to assure power supply integrity. In that connection, this Commission concludes that it is in the best interest of the public for this Commission to have ample time to fully consider all areas of concern before substantial commitments are made for the construction of a generation facility. The record developed in this hearing serves to emphasize the immense dimensions of the facilities needed and required to provide electric power for the future needs of the people of North Carolina. It has become apparent to the Commission that facilities to meet these needs must be designed and planned many years in advance of actual construction, and that past practices have not enabled the Commission, other interested agencies of the State of North Carolina, or the public to be adequately informed as to the long-range needs and plans for such facilities. The Commission has concluded, therefore, that the broad public interest requires a more definitive and timely approach to the manner in which such electric

generating facilities are planned, designed, certificated, and constructed. Accordingly, within the very near future, the Commission shall, on its own motion, initiate a general investigation into the matters and problems associated with the design, planning, certification, and construction of major electric generating facilities in this State. This general investigation will be so structured as to enable the Commission to promulgate and adopt suitable rules and requirements to enable it to more effectively discharge its duties and responsibilities in these matters.

IT IS, THEREFORE, ORDERED:

That a Certificate of Public Convenience and Necessity be, and it is hereby, granted to Carolina Power & Light Company for the construction of the Shearon Harris Nuclear Electric Generating Plant, having a nominal output of 3,600 megawatts, to be located in Southwestern Wake County, North Carolina, as applied for in this proceeding subject to the following conditions:

(1) The plant will be constructed and operated in strict accordance with all applicable Laws and Regulations, including the construction and operation licenses to be issued by the Atomic Energy Commission and the permits issued by the North Carolina Department of Water and Air Resources.

(2) Carolina Power & Light Company shall, on a continuing basis, promptly furnish the Commission with copies of reports made by and for the Company bearing on (a) the ecology of the cooling reservoir; (b) the effect of the operation of Harris Nuclear Plant on the environment; and (c) technological improvements in the construction and operation of generating facilities. Also, the Company shall, on a continuing basis, make available for inspection by the Commission Staff all projections and studies made by or for the Company regarding system load projections, system generation outage and reliability records (or studies), its generation site studies (including a listing of possible sites held by any Company-owned affiliates), data on nuclear and fossil fuel sources including suppliers and costs and any contracts executed in regard to fuel obtainment, and data on disposal of fuel wastes.

(3) During the month of January of each year, beginning with the year 1973, CP&L shall furnish the Commission with a progress report, which shall provide information upon which the Commission may evaluate the current status of the construction of said facility and time at which it is

anticipated said facility, or any part thereof, might become operational for the generation of electric energy.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of February, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 213

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Carolina Power & Light 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 Facilities at its Roxboro Steam Electric Generating Plant in Person County, North Carolina	)	ORDER GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on September 5, 1972

BEFORE: Chairman Marvin R. Wooten, Presiding; Commissioners John W. McDevitt, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

Sherwood H. Smith, Jr., Esquire
Charles D. Barham, Jr., Esquire
Carolina Power & Light Company
P. O. Box 1551, Raleigh, North Carolina 27602

For the Commission's Staff:

Edward B. Hipp, Esquire
Commission Attorney
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: This proceeding was instituted on June 7, 1972, by the filing of application by Carolina Power & Light Company (CP&L) for a Certificate of Public Convenience and Necessity under G.S. 62-110.1 to construct new generating capacity identified as the Roxboro Steam Electric Generating Plant Unit No. 4 on its existing site in Person County near Roxboro, North Carolina. By Order of the Commission dated June 27, 1972, Notice of the application was required to be published in a newspaper(s) of general

circulation in Person County. On June 27, 1972, the Commission, on its own motion, issued an Order setting public hearing on the application for September 5, 1972, in the Commission Hearing Room, Raleigh, North Carolina. The Order further stated that CP&L would have the burden of proof to support its application by testimony of qualified witnesses together with exhibits and data and to establish for the record through competent testimony and evidence justification for the proposed plant from economic, power supply requirements, reliability, and environmental viewpoints.

Under the Application for a Certificate of Public Convenience and Necessity, CP&L proposes to construct one 720,000 KW net capacity Unit No. 4 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 800-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 control room being constructed for Unit No. 3 addition. Principal fuel for the unit will be coal and the existing fuel handling facilities will be extended to serve Unit No. 4.

A public hearing was held in the Commission Hearing Room, Raleigh, North Carolina, on September 5, 1972, with counsel for all parties appearing and participating as shown heretofore. The Applicant offered testimony and exhibits of its witnesses, Mr. Wilson W. Morgan, Manager of System Planning and Cost Control, Carolina Power & Light Company, Mr. Larry E. Smith, Manager-Fuel, Carolina Power & Light Company, and Mr. James M. Sell, Principal Engineer-Environmental, Carolina Power & Light Company.

Testimony of Applicant's Witnesses

Mr. Wilson W. Morgan: Mr. Wilson W. Morgan, Manager of System Planning and Cost Control, CP&L, testified and offered evidence as to the economic justification, system reliability and power supply requirements of the proposed Roxboro Unit No. 4.

Mr. Morgan testified substantially as follows:

Although the average national electrical demand for electricity is doubling every ten (10) years, demand on CP&L's system has more than doubled in seven years from 1749 MW in 1964 to 3625 MW in 1971. The peak load was forecast to be 4279 MW in 1972 and to increase to 9912 MW in 1980.

Approximately 18 percent reserve margin is considered necessary for reliable system operation. This reserve

margin is necessary to allow for loss of one of the five largest generating units, reduced capability of generating units due to equipment failures, variations in the actual load from that forecast, and extreme weather conditions which can result in load increases of as much as 4 percent.

With the addition of the proposed Roxboro unit in 1976, the reserve margin would be 19.6 percent; without it, the reserve margin would only be 8.7 percent. Further, without the proposed unit, loss of one of the five largest generating units would result in CP&L not having sufficient generation to supply its forecast load. With the four Harris nuclear units installed on schedule between 1977 and 1980 and with the proposed Roxboro unit installed in 1976, the reserve margin between 1977 and 1980 would range from about 16 to 22 percent. Without the Roxboro unit this margin would fall to about 9 to 12 percent. Further, no neighboring companies are installing extra generating capacity, either collectively or individually, in quantities to meet the needs of the 1976 unit. Also, studies show that the diversity in summer peaks for all neighboring companies is less than 1%, thus, large blocks of power are not available at peak times. With respect to the type of fuel to be used, a nuclear generating unit was considered; however, it could not be installed in time to meet the 1976 summer peak. In regard to location, the Roxboro site was chosen for several reasons. First, Roxboro was a developed site with transmission rights of way and cooling capacity for additional generation. The proposed 720 MW unit can be added at Roxboro with a minimum of additional environmental impact. Also, the addition of the 1976 unit at Roxboro presented the opportunity to duplicate the 1973 unit and utilize the experienced work force already available at the site.

The Roxboro site has four 230 KV transmission lines, two to the Raleigh area, one to Rocky Mount, and one to Henderson. There are two 230 KV interties with Duke that go to the Durham area. Two lines are being added along with a third generating unit. One of these will go to the Raleigh area. The second will be an interconnection with VEPCO. Another 230 KV line to the Raleigh area will be added with the addition of Roxboro Unit No. 4. This line will cause minimum environmental impact since only 4.2 miles of new right-of-way will be needed. The remainder of the line will either parallel an existing line or require conversion of a 115 KV line to 230 KV. These strong ties with the rest of the CP&L system and with the neighboring systems, Duke and VEPCO, should improve CP&L's system stability. Loss of generation at Roxboro would impose a better balanced burden than loss of generation at the other CP&L plants.

The estimated cost of the new Roxboro unit will be $94 million. This is a cost based on the cost of Roxboro Unit No. 3 trended for the later time period of construction. The new unit would share $23 million worth of facilities now being constructed for Unit No. 3. The annual costs of

operation and maintenance (excluding fuel) would be about $6.38 per KW for the first year of operation. The Company expects the unit to operate at a load factor of 70.75% with overall reliability that will equal or exceed that of fossil units of similar size.

Mr. Larry E. Smith: Mr. Larry E. Smith, Manager-Fuel, CP&L, testified and offered evidence as to the availability, adequacy and source of the fuel for the coal-fired Roxboro Unit No. 4.

Mr. Smith testified substantially as follows:

Coal is the most feasible fuel to be used at the proposed addition to the Roxboro Plant. Nuclear fuel was ruled out as impractical because of the long lead times required to license and construct a nuclear unit. Oil cannot be used as economically as coal at Roxboro because of the high transportation costs for residual fuel oil. Also, oil costs have increased significantly, over 64% since January 1970. Natural gas was not considered because of its present inavailability and the likelihood of continued short supply. The ruling out of these other fuels left coal as the most economical choice. Further, Roxboro has high volume rail tariffs which are considerably lower than freight rates to other CP&L plants. Studies were conducted in February 1971 which estimated coal costs for 1971 and resulted in Roxboro coal cost being 33% below the average costs to the other coal-fired plants. These results favored Roxboro over other locations.

The coal for the Roxboro plant is obtained from the areas designated by the U. S. Bureau of Mines as Districts 7 and 8. These areas consist of parts of Virginia, West Virginia and Kentucky, and are served by the Norfolk & Western and the Chesapeake & Ohio Railroads. These areas lie in the Appalachian coal region, which contains 107 billion tons of reserves of coal containing less than 1% sulfur, of which 12 billion tons are identified and recoverable. Roxboro Unit No. 4 would require less than 0.2% of the 12 billion tons of identified and recoverable coal during a 30-year lifetime. A total of 95% of these reserves are in the above mentioned three states and are thus in economical freight areas for CP&L.

CP&L has four million tons per year of coal under long-term contract. This coal could be used economically at Roxboro but would only fulfill about 80% of the Roxboro plant requirements. 1.5 million tons of this coal can be shipped economically to eastern area plants. CP&L has issued invitations to bid on the supply of an additional two million tons per year. Preliminary results show that five companies have made proposals for contracts varying from one to ten years for a total of three million tons per year. There are five other companies that may have tonnage for the immediate future. The prices range from 44¢ to 53¢/MBTU delivered.

There are two volume freight tariffs to the Roxboro Plant. These are 1) unit train from Harris, West Virginia, with origin in C&O district and delivery by N&W at a present rate of $2.81/ton and 2) origins in N&W district where rates are $2.81 to $2.94/ton for all tonnage in excess of 500,000 tons during a calendar year in 9000-ton trainload movements.

Mr. James M. Sell: Mr. James M. Sell, Principal Engineer-Environmental, in the Environmental and Technical Services Section of the Special Services Department, CP&L, testified and offered evidence as to the environmental impact and justification of the addition of a new unit at the Roxboro Plant.

Mr. Sell testified substantially as follows:

The existing circulating water system was built to accommodate Units 1 and 2. There is a 3750-acre cooling lake which is used to cool Unit 1,401 MW, and Unit 2, 680 MW. The flow for these two units is 860 cubic feet per second (cfs). The intake is in an arm of the lake east of the plant and the discharge is in a small arm west of the plant. Water circulates from the discharge back to the intake through a portion of the lake having an effective cooling area of about 740 acres.

Changes are being made in the circulating water system to accommodate Unit 3. The intake will be moved to a point near the dam and the discharge will be at the upstream end of the lake. About 1/3 of the 1440 cfs of cooling water required for the three units will be discharged in the South Hyco Creek arm and the other 2/3 will be discharged in the North Hyco Creek arm. The effective cooling area of the lake will be increased by 1410 acres for a total effective area of 2150 acres.

An afterbay reservoir will be constructed downstream of the main cooling lake and will provide further cooling. The afterbay will have about 650 surface acres and will be about 45 feet deep at the dam. Cool water will be released to the river at two points, 20 and 30 feet below normal water level. The water released to the river will be aerated to increase dissolved oxygen content and will comply with State stream standards.

These modifications were designed to support future expansion. The increased effective cooling area, revised intake and discharge canals, and afterbay are capable of cooling more than 2700 MW. The fourth unit will increase the plant capacity to 2521 MW. The four units will normally withdraw about 2020 cfs and circulate it through the condensers with a temperature rise of about 24° F. Under the most adverse five-day meteorological period on record, the surface temperature of the plant discharge will be about 118° F; and the surface temperature near the intake will be about 94° F or about 6° F above the natural equilibrium temperature of the lake under these conditions. These

conditions only involve the 2150 acres of effective surface area of the lake.

Studies have shown that cooling lakes are more economical and have less consumptive use of water than cooling towers. Since Roxboro Unit No. 4 will not exceed the thermal capacity of the existing lake, the use of the lake for the proposed addition is more economical and efficient than the use of cooling towers. The afterbay will assure compliance with State stream standards.

At the time the need for the 1976 unit became apparent, there was insufficient time to develop a new site for a 1976 unit. This required that the 720 MW unit be placed at an existing facility and, of the existing CP&L generating facilities, the Roxboro Plant was the most feasible.

Technology for the control of particulate emissions has been developed and is available. An electrostatic precipitator is planned for Roxboro Unit No. 4 which will provide compliance with the EPA standards for particulate matter.

Two approaches are being investigated for the control of sulfur dioxide emissions. First, the Company is attempting to purchase coal with sulfur levels low enough to meet air quality standards without stack gas desulfurization. In addition, the Company is evaluating the principal sulfur removal systems currently under development. Of these systems wet scrubbers are the most advanced and have been installed on units ranging up to 430 MW in size. Wet scrubber systems are presently less reliable than other power plant components. For this reason, a combination precipitator-wet scrubber is also being considered with a by-pass around the scrubber which will permit operation of the precipitator and collection of the fly ash when the scrubber is down for modification and/or repair.

FINDINGS OF FACT

1. That Carolina Power & Light 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. That the Company's annual peak load was 3625 megawatts in 1971 and is projected to be 9912 MW in 1980, an average annual increase of 11%. Based on the 11% average annual increase experienced for the last six years, said projection is found to be reasonable.

3. That a reserve margin in generating capacity of approximately 18% is considered desirable for the Company's system to provide adequate and reliable service.

4. That for the summer of 1976, when the Roxboro Unit No. 4 addition will be required for operation, CP&L expects to have a system reserve margin of 19.6%. Without the Unit No. 4 addition, CP&L's reserve margin would be only 8.7%.

5. That 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 March 1, 1976, to provide the capacity for the planned normal load growth of its system, which unit is the most economical and dependable type of generating capacity that the Company can provide by March 1, 1976.

6. That the Company has financial ability to pay for the construction and installation of the additional generating unit, which is estimated to cost $94,000,000 excluding the cost of equipment necessary for the removal of the oxides of nitrogen and sulfur.

7. That the Company has ensured an adequate fuel supply incorporating high volume, low tariff freight rates.

8. That the Roxboro Unit No. 4 is designed to meet all applicable air and water quality standards.

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 March 1, 1976; (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, in view of the longer lead times of nuclear generating units; (c) such facilities are required to maintain adequate and dependable electric service for the Company's customers; and (d) such facilities will meet all applicable air and water quality standards.

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. 4 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 800-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 switch-yard. Controls for the unit will be

located in the control room being constructed for Unit No. 3 addition. Principal fuel for the unit will be coal and the existing fuel handling facilities will be extended to serve Unit No. 4.

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 8th day of November, 1972.

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

DOCKET NO. E-2, SUB 207

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Harris M. McRae and Wife, Nancy T. McRae, P. O. Box 250, Ellerbe, North Carolina; W. S. McRae and Wife, Ruby C. McRae, Ellerbe, North Carolina; J. C. Treece, Prison Camp Road, Rockingham, North Carolina; and Ellerbe Lumber Company, Inc., P. O. Box 456, Ellerbe, North Carolina, Complainants vs. Carolina Power and Light Company 336 Fayetteville Street, Raleigh, North Carolina, Defendant	)	ORDER DISMISSING COMPLAINT

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on January 14, 1972, at 2:00 P.M.

BEFORE: Chairman Harry T. Westcott (Presiding) and Commissioners John W. McDevitt, Marvin R. Wooten, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Complainants:

Henry M. Patterson, Jr.
Smith, Patterson, Follin & Curtis

Attorneys at Law
816 Southern Building
Greensboro, North Carolina

For the Defendant:

Sherwood H. Smith, Jr.
Carolina Power and Light Company
P. O. Box 1551, Raleigh, North Carolina

Henry A. Mitchell, Jr.
Carolina Power and Light Company
P. O. Box 1551, Raleigh, North Carolina

WOOTEN, COMMISSIONER: This cause arises upon complaint filed by the above captioned complainants (hereinafter referred to as complainants) filed with the Commission on December 21, 1971, wherein the complainants allege and contend that, as individuals, they are citizens and residents of Richmond County, North Carolina, and that the corporate complainant, Ellerbe Lumber Company, Inc., is a North Carolina corporation with its principal business located in said Richmond County, North Carolina; that Carolina Power and Light Company (hereinafter referred to as CP&L) is a public utility incorporated under the laws of North Carolina; that together the complainants own approximately 1075 acres of undeveloped and largely unspoiled land in Mineral Springs Township, Richmond County, North Carolina, the highest and best use for which is for recreation purposes; that the complainants are developing on the said lands a multi-million dollar recreational area with a ski slope, golf course, and lake with residential home sites; that a large camp site has been completed; that the complainants have expended approximately $250,000 for planning and improvements to their property; that the defendant, CP&L, is constructing a major 230 KV transmission line from Rockingham, North Carolina, to Asheboro, North Carolina; that the defendant, CP&L, is preparing to cross the complainants' property herein described with its overhead transmission lines and supporting appliances, consisting of large unsightly structures; that the defendant initiated condemnation proceedings in the Superior Court in Richmond County to acquire a 100-foot right-of-way strip across the complainants' land for the construction of said transmission line; that the location of said proposed transmission lines on the complainants' property will destroy its natural beauty and usefulness for its highest and best use; that the right-of-way location will do irreparable harm to the property of complainants; that the construction proposed by the defendant adversely affects, to an appreciable extent, the planned usage of the land by the complainants; that the defendant did not apply for or acquire, prior to initiating construction of the new 230 KV Rockingham-Asheboro transmission line, a certificate of public convenience and necessity as it is required to do under North Carolina General Statute 62-110; that the defendant is without lawful authority to proceed with the

construction of such system until it has obtained a certificate of public convenience and necessity from the North Carolina Utilities Commission; that the defendant's activities were in violation of the North Carolina Environmental Policy Act of 1971, N.C.G.S. 113A-3; that the defendant has failed to provide detailed environmental statement with regard to its proposed activities and their effect upon the quality of the environment; that the acts of the defendant in the light of its status as a protected monopoly are subject to the said North Carolina Environmental Policy Act as acts of State agencies and that the defendant and the North Carolina Utilities Commission have failed to comply with the General Statutes of North Carolina regarding the said Environmental Policy Act and the North Carolina Public Utilities Law.

In their complaint the complainants prayed that the Commission order the defendant to cease constructing its new 230 KV transmission line referred to, until such time as it had obtained a certificate from this Commission for said project; that the Commission order Carolina Power and Light Company to cease further constructing its said transmission line until it had submitted to the Commission a complete and lawful detailed environmental statement as required by law; and that the Commission deny the defendant a certificate of public convenience and necessity in accordance with the North Carolina Environmental Policy Act of 1971.

The complaint of the complainants was served upon the defendant by Commission Order dated December 23, 1971. The defendant filed its Answer and Motion to Dismiss the complaint in this case on January 4, 1972, in which it prayed that the complaint of the complainants be dismissed pursuant to the provisions of Rule R1-7(a)(4) for the reason that said complaint did not constitute a proceeding within the jurisdiction of this Commission and for the reason that the Commission was without authority to grant the relief sought; that the Commission find that the defendant is not required to apply for nor acquire prior to initiating construction of said transmission lines, a certificate of public convenience and necessity; and that the Commission find that the proviso of the North Carolina Environmental Policy Act of 1971 does not apply to CP&L nor to the Utilities Commission under the circumstances alleged in the complainants' complaint.

On request of the parties hereto, the Commission by its Order of January 10, 1972, set the matter of the Motion to Dismiss the complaint in this case for oral argument and the filing of simultaneous briefs on January 14, 1972, at 2:00 P.M., at which time and place the parties were present, represented by counsel, and filed simultaneous Memoranda of Law on the issue of jurisdiction of this Commission in this case.

The Commission takes judicial notice of its records in Docket Numbers ES-30 and ES-33 and Orders issued therein,

establishing that portion of CP&L certificated service area herein involved.

From the records herein, the records of this Commission, and the able arguments of counsel, it appears to the Commission as follows:

1. That the transmission line in question will transmit electric energy from one of CP&L's sources of supply at Rockingham to its Asheboro, Ramseur and Siler City certificated service area and that CP&L has the right under the laws of the State of North Carolina to proceed with the construction of said transmission line, which construction is in the ordinary course of business, in order that it may comply with its continuing responsibility to provide firm dependable electric service to the Asheboro, Ramseur, Siler City area.

2. That the defendant is not required to obtain a certificate of public convenience and necessity from this Commission in order to construct its transmission lines and that the provisions of G.S. 62-110 do not require that a certificate be issued under the circumstances of this case for the reason that the construction herein is in the ordinary conduct or course of business in accordance with said statute, which specifically provides that:

> "...this section shall not apply to construction into territory contiguous to that already occupied and not receiving similar service from another public utility, nor to construction in the ordinary conduct of business." (Emphasis Added)

The transmission line in question herein is being constructed by CP&L in order to transmit energy to portions of its certificated service area.

3. That G.S. 62-110.1 was enacted by the Legislature subsequent to the enactment of G.S. 620-110, and required a certificate of public convenience and necessity for the construction of generating facilities, thereby removing such construction from the G.S. 62-110 "ordinary conduct of business" proviso, and construing the two statutes together, while reflecting upon their dates of enactment, the legislative intent to exclude transmission line construction as "in the ordinary conduct of business" seems clear; the language of G.S. 62-110.1(a) states as follows:

> "Notwithstanding the proviso in G.S. 62-110, no public utility or other person shall begin the construction of any steam, water, or other facility for the generation of electricity to be directly or indirectly used for the furnishing of public utility service, even though the facility be for furnishing the service already being rendered, without first obtaining from the Commission a certificate that public convenience and necessity

requires, or will require, such construction." (Emphasis Supplied)

4. That a reading of the above statutes together appears to clearly indicate that these statutes do not require that this Commission issue a certificate of public convenience and necessity before construction of transmission facilities can properly begin, in that the same is in the ordinary course of construction, and further in view of the fact that the Legislature in 1965 specifically required the obtaining of such certificate prior to the beginning of construction of an electric generating facility, which theretofore had been considered a part of the "construction in the ordinary course of business" proviso of G.S. 62-110.

5. That Carolina Power and Light Company is a privately-owned corporation and is not a State agency as contemplated by the North Carolina Environmental Policy Act of 1971 (N.C. G.S. 113A-1 et seq.), which specifically excludes private corporations, under the facts and circumstances of this case.

In the light of the above, the records in this case, and the records of the Commission, the Commission concludes as follows:

1. That the specific proviso of G.S. 62-110 as amplified in G.S. 62-110.1 is determinative as to whether or not CP&L must obtain a certificate of public convenience and necessity from this Commission prior to the construction of its transmission lines to serve its certificated territory when such construction is in the ordinary course of business as in this case; and that the North Carolina Environmental Policy Act of 1971 is not applicable under the facts of this proceeding.

2. Even though this Commission might conclude that it should appropriately have the authority to direct the course of construction in the ordinary conduct of business in the case of transmission lines under the facts of the case herein, we must conclude that we cannot legally take such authority and jurisdiction without a legislative mandate with reference thereto which here, under the facts in this case, we conclude does not exist.

IT IS, THEREFORE, ORDERED:

That the complaint in this matter be, and it is, hereby dismissed for want of jurisdiction, and this proceeding is terminated.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of February, 1972.

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

DOCKET NO. E-2, SUB 207

WELLS, COMMISSIONER, DISSENTING: The question of law involved in this case is whether or not the complainants have stated "a cause of action" against the defendant, upon which the Commission should assume jurisdiction and conduct a hearing for the purpose of taking evidence and determining the factual basis of the complaint.

There are two basic jurisdictional aspects of this complaint: (1) whether or not the Commission has jurisdiction under G.S. 62-30, 62-31, 62-32, 62-42, 62-43 and 62-73 to hear and determine a complaint of this type; and (2) whether or not construction of the type and proportion complained of herein may be carried out by a public utility without its first seeking and obtaining from the Commission a certificate of public convenience and necessity.

It appears to me that the answer to (1) above is clearly in the affirmative. This Commission has been given the most broad powers of regulation and supervision of public utility companies in this State, clearly to enable the Commission to assist the people of North Carolina in obtaining and enjoying reliable and efficient public utility services, and to determine where appropriate the manner in which such services are being provided. At this juncture in the development of public utility law, it also seems clear that the duties of the Commission, as set forth in the foregoing sections of Chapter 62, must now be carried out in the light of and in compliance with the provisions of the Environmental Policy Act of 1971 as set forth in Chapter 1203 of the Public Laws of 1971, and as stated in the complaint.

Whether or not on appropriate hearing it would appear that the Commission should interfere with the construction of the line, or require the defendant to construct the line along an alternative route, or in a different manner from that contemplated by the defendant, is not the question here. The question is whether or not the complainant should be cut off at the gate, so to speak, on jurisdictional grounds.

The language of G.S. 62-110 was first adopted as statutory law in this State in Chapter 455 of the Session Laws in 1933. The language then, as is now, was prohibitive in nature, and except for the proviso, there would be no new construction of any kind on the part of a public utility firm in North Carolina without certification. Therefore, certification is the rule, but with certain exceptions, which seem clearly stated to accommodate two aspects of public utility operations: (1) growth into areas not receiving similar service from another utility, which is an aspect of the law of franchise; and (2) growth in the ordinary conduct of business, which is an aspect of service.

Where growth occurs in previously certificated territory, which is the case here, the first aspect becomes moot; and we are, therefore, here left with the question of what is "ordinary" growth.

The General Assembly has by the provisions of G.S. 62-110.1 answered this question with regard to the construction of generating facilities by electric utility companies in North Carolina, but the question as it relates to the construction of high voltage transmission facilities has not heretofore been directly dealt with.

The only case law even remotely in point seems to be that contained in Carolina Power and Light Company vs. Johnston County Electric Membership Corporation, 211 N.C. 717, 192 S. E. 105 (1937), where the defendant here, Carolina Power and Light Company, was there bringing an action predicated upon the theory that a North Carolina electric membership corporation was required (under these self-same provisions of G.S. 62-110) to seek a certificate of public convenience and necessity before it could build distribution lines in an area partially served by CP&L. It would appear, therefore, that we are dealing with a case of first impression, and that it is the duty and function of this Commission to reasonably interpret the meaning of the statutory law as it was written by the General Assembly and in the context of the operation of public utility businesses.

Black's Law Dictionary defines the word "ordinary" as "regular; usual; normal; common; often recurring; according to established order; settled; customary; reasonable; not characterized by peculiar or unusual circumstances;" - these definitions being drawn from court decisions therein cited. It would appear that the construction of this type and length of transmission line could have been in no sense considered by the 1931 General Assembly to be a regular, usual, normal, common and often recurring business event; and even in this day and time when long sections of high voltage transmission lines are frequently being constructed, it would be stretching the definition of "ordinary" to classify a project of this type and size within that definition.

The Utilities Commission of North Carolina has not heretofore assumed jurisdiction over the construction of high voltage transmission facilities, in the sense that it has not required such construction to be certificated. I believe that point of view to be outdated and outmoded, and that in view of the present-day demands upon our natural resources commensurate with the construction and operation of such facilities, and particularly in the light of the announced policy of this State as set forth in the Environmental Policy Act of 1971, this Commission can no longer avoid its responsibilities in this area.

The Environmental Protection Act of 1971 is a clear mandate to this Commission, directing us to administer our

duties and responsibilities in accordance with the policies set forth in that Act. The result of the Majority decision in this case is to completely ignore that mandate. Whether we are talking about certification or prudence, the complaint alleges that the construction of the transmission line in question will do great violence to the natural environment, and since the construction is to be carried out by a public utility company subject to the jurisdiction, regulation, supervision, and direction of this Commission, it seems clear to me that we have missed the point and ignored our opportunity and responsibility to do our part in considering whether or not the Environmental Policy Act of 1971 stands for anything when it comes to the activities of public utility companies.

From a jurisdictional standpoint, the Commission should, under the allegations of the complaint in this case, assume jurisdiction and consider all questions of law involved in the light of the facts developed upon an appropriate hearing, both with regard to basic regulation of the manner in which public utilities carry out their acts and functions and with regard to the appropriate certificating of the facility in question.

Hugh A. Wells, Commissioner

DOCKET NO. E-7, SUB 134

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Hunt Manufacturing Company, Inc., a Corporation, Complainant	)	
vs.	)	ORDER DISMISSING COMPLAINT
Duke Power Company, a Corporation Defendant	)	

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on April 12, 1972, at 9:00 A.M.

BEFORE: Commissioners Hugh A. Wells (Presiding), Miles H. Rhyne and John W. McDevitt

APPEARANCES:

For the Defendant:

George W. Ferguson, Jr., Esquire
Duke Power Company
422 S. Church Street
Charlotte, North Carolina

Raymond A. Jolly, Jr., Esquire
Duke Power Company
422 S. Church Street
Charlotte, North Carolina

For the Complainant:

William P. Pope, Esquire
Pope, McMillan & Bevder
116 Court Street
Statesville, North Carolina
For: Hunt Manufacturing Company, Inc.

WELLS, COMMISSIONER: On October 15, 1971, Hunt Manufacturing Company, Inc. (Hunt), filed its Complaint in this docket against Duke Power Company (Duke), in which Hunt alleged that it was a retail electric customer of the City of Statesville at its manufacturing facility in Statesville; that Duke furnishes the City of Statesville with electric power at wholesale; that there are other manufacturing businesses in Statesville being served directly by Duke at rates less than those paid by Hunt to Statesville, resulting in discrimination by Duke against Hunt; and that within the meaning of the applicable statutory law, Statesville is a "primary supplier" and Duke is a "secondary supplier".

By Order of October 26, 1971, Hunt's Complaint was served on Duke, pursuant to the provisions of Rule R1-9 of the rules and regulations of the Commission.

On November 26, 1971, Duke answered and demurred to the Complaint.

Additional pleadings have been filed and procedural orders entered, and the matter is now before the Commission upon Duke's Motion to Dismiss for Want of Jurisdiction, filed March 21, 1972, said Motion having been set for Oral Argument on April 12, 1972, by Order dated March 27, 1972.

In addition to the general allegations of fact recapitulated above, Hunt's Complaint set forth the following prayer for relief:

"1. That respondent be required to cease and desist from selling electrical power directly to consumers in the City of Statesville who are in substantially the same circumstances as complainant with respect to their demands for electrical service, pursuant to provision made in G.S. 160-515(1).

"2. That respondent be required to cease and desist from practices which result in the maintenance of unreasonable differences as to rate or services between complainant and others similarly situated in the City of Statesville, as provided by G.S. 62-140.

"3. That, in the event respondent is not compelled to cease and desist from the sale of electrical power directly to the aforesaid seven businesses in the City of Statesville, respondent be compelled to sell electrical service directly to complainant upon the same basis and at the same rates as enjoyed by others under substantially the same circumstances."

In its Answer and Motion to Dismiss, Duke denied the material allegations in the Complaint, and set forth contentions and grounds upon which it demurred to the Complaint for failure to allege facts upon which the relief prayed for could be granted and for lack of jurisdiction in the Commission to grant such relief.

The controlling statutory laws in this cause are the provisions of G.S. 62-3, 62-30, 62-32, the various provisions of G.S. 150-610, et seq., now codified in Article 16, Chapter 160A of the General Statutes, and G.S. 62-140.

Based upon the pleadings and arguments of counsel, the Commission

FINDS:

1. That Statesville is a "city" as defined in G.S. 160A-1(2).

2. That Statesville is not a "public utility" as defined in G.S. 62-3(23), and is not a "public utility" within the meaning of G.S. 62-30, 62-32, and 62-140.

3. That Statesville is a "primary supplier" as defined in G.S. 160A-331(4).

4. That Duke is a "secondary supplier" as defined in G.S. 160A-331(5).

The Commission, therefore,

CONCLUDES:

(1) That the City of Statesville is exempt from the jurisdiction and authority of this Commission as it relates to the activities of the City of Statesville as to the matters complained of herein.

(2) Hunt has not alleged any acts of discrimination as between said service and/or rates to it and other retail customers of Duke, as contemplated by the provisions of G.S. 62-140.

(3) Pursuant to the provisions of G.S. 160A-331, 332 and 334, Statesville is entitled as a matter of law to continue to serve Hunt so long as Hunt requires service at its present premises, and this Commission is without authority

or jurisdiction to order Statesville to cease serving Hunt or to order Duke to serve Hunt at its present premises.

(4) Hunt has failed to allege facts or circumstances upon which the relief prayed for may be granted by this Commission, and this Commission is without jurisdiction to grant such relief.

Wherefore, it is hereby ordered that the Complaint be, and it is hereby, dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 201

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Carolina Power & Light Company for)
Authority to Increase Its Electric Rates and Charges) ORDER

PLACE: Commission Hearing Room, Raleigh, North Carolina

DATE: November 2, 3, 4, 5, 8, 9, 10, 11 and 12, 1971

BEFORE: Chairman Harry T. Westcott, Presiding, Commissioners Marvin R. Wooten, John W. McDevitt, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

R. C. Howison, Jr.
Joyner & Howison
Wachovia Bank Building
Raleigh, North Carolina 27602

Sherwood H. Smith, Jr., and
Thomas E. Capps
P. O. Box 1551, Raleigh, North Carolina 27602

For the Using and Consuming Public:

I. Beverly Lake, Jr.
Attorney General's Office
Revenue Building, Raleigh, North Carolina

Jean A. Benoy
N. C. Department of Justice
Room 124, Ruffin Building
Raleigh, North Carolina

Louis W. Payne, Jr.
N. C. Department of Justice
Consumer Protection Division
Room 124, Ruffin Building
Raleigh, North Carolina

For the Intervenor:

R. C. Hudson
Office of General Counsel, U. S. Navy
c/o Commander, Atlantic Division
Naval Facilities Engineering Command
U. S. Naval Station
Norfolk, Virginia 23511
For: All Executive Agencies of U. S. A.

For the Commission Staff:

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

BY THE COMMISSION: This proceeding was instituted on May 3, 1971, with the filing by Carolina Power & Light Company (hereinafter called "CP&L") of an Application for authority to increase its electric rates and charges for its retail customers in North Carolina by an across-the-board increase of 5.63%. The Application included a Petition to place said rates into effect immediately on an interim basis under an Undertaking for refund pending final determination by the Commission on the Application for rate increase.

The increases applied for are based on allegations of general revenue needs, to be distributed to all classes of customers upon a flat rate increase upon all schedules. The Application and the exhibits attached thereto contend that the rate increase is needed and required due to increases since the last CP&L rate case in the coal used in CP&L's coal fired electric steam generating stations and to the increase in imbedded interest costs and the increase in preferred dividends arising from CP&L's large construction program, necessary to meet the demands for electric service in its franchised territory in North Carolina, and to meet other increases in expenses of operations since the cost and expenses computed in the last increase in CP&L's rates authorized on February 26, 1971, based upon a test period of operations ending December 31, 1969. NCUC Docket No. E-2, Sub 193. The Application, as filed, sought to produce proformed additional annual gross revenue of $7,859,000 on North Carolina retail operations.

By Order of May 7, 1971, the Commission suspended the rate increase applied for and set the Petition to place the rates into effect as interim rates under Undertaking for hearing on Affidavits on June 16, 1971, and declared the Application to be a general rate case and set it for public hearing on November 2, 1971.

Petitions to intervene in protest to the rate increase were filed and Orders duly entered allowing interventions of ElectriCities of North Carolina and the Department of Defense, for the United States of America. The Attorney General of North Carolina gave Notice of Intervention on behalf of the using and consuming public, and an Order was duly entered recognizing the intervention of the Attorney General in such capacity.

The request for interim increase under an Undertaking for refund pending the final hearing and the outcome of the proceeding was heard before the Commission on June 16, 1971, on oral arguments and Affidavits, and the applicant and all other parties were present and heard on said Affidavits. By majority Order entered on June 30, 1971, the Commission found an emergency financial crisis to exist to such extent as to justify the increase on the Affidavits and Undertaking for refund pending hearing, and allowed the interim across-the-board increase of 5.63% computed by CP&L to produce $7,859,000 on an annual basis for the test period ending December 31, 1969, and further estimated to produce $7,859,000 in increased revenues if effective on all bills rendered on and after May 17, 1971, for North Carolina retail customers through December 31, 1971.

The Attorney General filed a Petition for Writ of Certiorari in the Court of Appeals to review the Order of June 30, 1971, allowing said interim rate increase, and filed Motion to Stay said Order in the Commission. CP&L filed Reply to the Motion for Stay of the Order, and the Motion and Reply were duly set for oral argument. On August 13, 1971, the Attorney General filed Motion to Vacate the Order for oral argument for the reason that the Petition for Writ of Certiorari filed by the Attorney General in the North Carolina Court of Appeals was denied on August 1, 1971, and the argument on the Motion to Stay was duly cancelled.

The Order of investigation entered on May 7, 1971, fixed the test period for data and evidence in the proceeding under G.S. 62-133 to be the twelve months ending June 30, 1971, for the general rate case hearing set for November 2, 1971.

On August 30, 1971, CP&L filed an Amendment to its Application herein substituting new rate schedules for those filed with the original Application, to increase the rates to a proposed across-the-board increase of 19.63% in CP&L's retail electric rates in North Carolina in substitution for the original increase applied for of 5.63%. The amended

Application seeks to produce proformed additional annual gross revenue of $30,624,718 on North Carolina retail operations.

By Order entered June 9, 1971, CP&L was required to publish Notice of the amended Application and hearing scheduled for November 2, 1971.

Testimony and exhibits of CP&L and the testimony and exhibits of protestants and the Staff reports were duly filed in advance of the public hearing.

Public hearing was held in the Commission Hearing Room, Raleigh, North Carolina, beginning November 2, 1971, and extending through nine hearing days, ending on November 12, 1971, with counsel for all parties appearing and participating as shown above.

CP&L offered testimony and exhibits of witnesses as follows: Shearon Harris, President and Chairman of the Board of Directors and Chief Executive Officer of CP&L, testified as to the operations of CP&L, including the increased cost of fuel, increased interest costs, the decline in earnings of CP&L, and the need for the proposed rate increase to provide a rate of return sufficient to attract additional capital for the construction program of CP&L to meet the increased demand for electricity in its service area; Donald H. Dowlin, Chicago, Illinois, Vice President of Paul Weir Company, Registered Professional Engineers, testified as to the increases in the cost of mining coal and the increase in the price of coal, and the practices of CP&L in purchasing coal for its steam fired electric generators; Edwin E. Utley, Manager of Generation and System Operations Department of CP&L, testified as to the coal purchasing practices of CP&L, and the increased price of coal to CP&L for its coal fired electric generation stations; Bruce C. Netschert, Washington, D. C., Economic Consultant in the field of energy and minerals, and Vice President of National Economic Research Association, Inc., testified as to the increases in the cost of oil used in CP&L's oil fired steam generating stations, and the increased cost of producing coal and oil of sufficient low sulfur content to meet the standards of the Environmental Protection Act; James S. Currie, Treasurer of CP&L, testified as to the books and records of CP&L, including statements of profit and loss, balance sheets and outstanding indebtedness of CP&L; John J. Reilly, Long Island, New York, Director of Valuation and Appraisal Services of Ebasco Services, Incorporated, New York City, testified as an expert in appraisal of public utility properties and application of trended cost indices to obtain replacement cost of utility properties; Samuel Behrends, Jr., Vice President and Director of Rates and Regulations of CP&L, testified as to the entire operations of CP&L, its expenses and revenues, its need for the rate increase applied for to meet its obligations of its bonds, and the fair value of the utility property of CP&L used and useful

in serving the public in its service area; Robert R. Nathan, Economist and President of Robert R. Nathan Associates, Inc., Washington, D. C., testified as to rate of return requirements of CP&L to attract capital in the money market for the construction program needed to meet the demand in its service area; Edward G. Lilly, Jr., Senior Vice President for Finance for CP&L, testified as to the interest cost of CP&L and the requirements of securities CP&L would need to issue to support its construction program in the future, including its bonds, preferred stock and common stock; Paul Hallingby, Jr., Managing Partner of White, Weld & Company, New York, N. Y., testified as to the rate of return requirements of CP&L to attract capital in the money markets on a competitive basis; L. Sanford Reis, Ridgewood, New Jersey, President of Reis & Chandler, Inc., New York, N.Y., Economic Consultants, testified as to the rate of return requirements of CP&L; Paul Bradshaw, Assistant Controller in charge of accounting for CP&L, testified in explanation of certain accounting adjustments and pro forma adjustments of CP&L to conform with the end of the test period.

Public witnesses testified as follows: George R. Reynolds, Raleigh, N. C., testified as a customer with experience in the securities industry in support of the increase to provide needed service of CP&L; Zack H. Bacon, Raleigh, N. C., testified as a customer in the securities industry in support of the Application, to provide expanded service needed by customers; Joe R. Ellen, Raleigh, N. C., testified in support of the Application to provide continued expanded service of CP&L; and Kenneth W. Gaito, Raleigh, N. C., customer, testified in protest to the increase as being excessive, and in complaint of inefficient service to his subdivision development.

The Commission Staff offered testimony as follows: David A. Kosh, President of Kosh-Glassman Associates, Incorporated, Washington, D. C., Public Utility Consultants, testified as to the rate of return requirements of CP&L and the cost of capital to meet its construction program; Paul Fahey, Chattanooga, Tennessee, consultant in coal purchasing practices, testified as to the price of coal and the practices of purchasing coal by CP&L and the utility industry; William E. Carter, Staff Accountant for the Utilities Commission, testified as to the Commission Staff audit report of CP&L, including CP&L's revenues, expenses, net income and return on the utility plant property and on the CP&L common stockholder's equity; Robert K. Koger, Director of Engineering of the Commission Staff, testified as to the cost of fuel of CP&L, including calculations of an Engineering Department study for cost of fuel, including nuclear fuel in CP&L's nuclear fired steam generators; and Andrew W. Williams, Commission Staff Nuclear Engineer, was tendered in connection with the nuclear fuel study and was examined in connection with said study and exhibit.

CP&L and the Commission Staff offered extensive testimony and exhibits and opinions of expert witnesses to the operations of CP&L, the rate of return, the coal purchasing practices of CP&L, the construction program of CP&L and the interest charges incurred as expenses of CP&L.

The parties requested and were granted leave to file briefs 30 days after the mailing of transcripts. The final volume of transcripts were mailed on November 17, 1971, and all briefs were filed and received by the Commission on or before December 17, 1971.

DIGEST OF TESTIMONY

The rate schedules of CP&L in effect upon the filing of this Application were established in Docket No. E-2, Sub 193, by Order of February 26, 1971.

CP&L's total North Carolina retail revenues of $169,285,423 for the twelve months' test period ended June 30, 1971, represent 77% of the system-wide revenues of $220,517,150. The revenue from retail operations in North Carolina are the only rates at issue in this proceeding. The North Carolina and South Carolina wholesale operations of CP&L are regulated by the Federal Power Commission, and the South Carolina retail operations are regulated by the South Carolina Public Service Commission.

Based on the test year in this docket, both CP&L and the Commission's Staff made separations of CP&L's operations between the North Carolina and South Carolina jurisdictions and separations between CP&L's sales for resale ("wholesale" operations) in North Carolina and its other customers ("retail" operations) in North Carolina. While CP&L's and the Staff's methods are not identical, the results of the two methods do not differ in material respects.

Such items as revenues, plant specifically located and serving only customers in one state or serving only "wholesale" customers, and/or expenses associated with providing service in one state or to wholesale customers can be specifically assigned to a jurisdiction for the purpose of eliminating all revenues, plant and expenses not properly includable in the North Carolina retail operations of CP&L over which this Commission has jurisdiction. However, because of CP&L's necessarily large investment in transmission and production plant capacity which jointly serves its entire system by means of a network of high voltage transmission lines, a majority of its plant investment and associated production and related plant expense must be apportioned on the basis of various allocation factors. Both the Staff and CP&L proceeded by first classifying the primary plant and expense accounts to Demand, Energy, and Customer related categories. The peak responsibility method was then used by both the Staff and CP&L to develop the demand allocation factors. The size of the required production and transmission plant being

dictated to a very large degree by the demand upon the system, the demand related factor is most significant in arriving at the amount of joint plant to be assigned to each jurisdiction. The Staff, using its allocation methods together with various standard accounting adjustments, arrived at an original cost investment in gross plant devoted to North Carolina retail operations of $635,479,000. CP&L also arrived at a figure of $635,479,000.

CP&L's total operations in North Carolina and South Carolina (both wholesale and retail) for the test period ended June 30, 1971, before adjustments, show gross operating revenues of $220,517,000, operating expenses of $185,358,000, with net operating income of $35,159,000. Total gross system investment in electric plant in service (North Carolina and South Carolina) was $927,242,000. After deducting accumulated depreciation and contributions in aid of construction and other standard adjustments, net investment in system electric plant was $752,754,000. The Commission Staff audit report indicates a total company system-wide rate of return of 4.40% on net investment (including working capital as adjusted by the Staff). Staff Carter Exhibit No. 1, Schedule 1, Col. 1.

The North Carolina retail operations of CP&L, which are the only services involved in this Docket, computed by separation of South Carolina business and wholesale business in North Carolina, produces the following operating data on CP&L's North Carolina retail operations during the test period, at the rates then in effect: Operating expenses of $140,046,000; Net operating income $29,239,000; Original cost of gross plant in service allocated to North Carolina retail service $635,479,000; Net nuclear fuel $14,646,000; Reserve for depreciation of $123,199,000; Contributions to construction of $2,502,000; Allowance for working capital of $31,922,000; Net plant $556,346,000; Return of 5.26% on net investment in utility plant in service. (See Table herein, rates of return, post.)

The rate increases sought in the Application would apparently produce additional revenue on North Carolina retail business of $30,625,000 for the test period. The addition of this revenue under the proposed rates would result in a net operating income of $43,311,000, for a rate of return of 7.82% on adjusted net investment in plant in service of $553,859,000 at the end of the test period.

The above operating statistics include many adjustments recognized in utility rate-making as hereinafter discussed and as further revealed in the testimony of the various expert witnesses and the exhibits offered into evidence at the public hearing. The figures are principally the result of the Commission Staff audit. There is no substantial disagreement between any of the parties as to the actual revenues of CP&L, the actual system expenses of CP&L, or the actual system investment in plant of CP&L during the test period, and only minor differences as to the allocated

expenses and plant investment in North Carolina retail service. These basic figures are not controverted by any evidence of record. The Commission Staff conducted an audit of the Company's books and confirmed the actual figures, as described.

The various differences in the conclusions of the expert witnesses of CP&L and the Commission Staff result entirely from accounting and economic adjustments to the actual figures, pursuant to differences in opinion as to utility rate-making practices, and recognized utility accounting practices, to arrive at North Carolina retail service. The record presents differences of opinion as to the proformed operating statistics of CP&L after such adjustments and the actual accounting data designed to establish a standard test year of operations for rate-making purposes. Adjustments, projected by the witnesses, include adjustments to bring forward known increases in revenues and expenses subsequent to the test period for "probable future revenues and expenses" under G.S. 62-133(c); contracted wage increases; and accounting adjustments for deferred debits, rent on combustion turbines, marketing advertising expense, cash working capital, materials and supplies, and Federal and State tax accruals.

All of the various adjustments by the various expert witnesses are amply set forth in the testimony and exhibits of the witnesses as shown in the record herein, and all have been thoroughly considered by the Commission in arriving at its Findings of Fact and Conclusions of Law therefrom, as hereinafter set forth.

FAIR VALUE EVIDENCE

G.S. 62-133 provides that the Commission shall ascertain the fair value of the plant in service at the end of the test period, considering original cost, replacement cost (which may be based upon trended cost), and any other factors relevant to the present fair value of the property, and following the determination of fair value, fix a rate of return on the fair value of the property as will enable the utility by sound management to produce a fair profit (to CP&L's stockholders), "considering changing economic conditions and other factors as they exist, to maintain its facilities and service 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 existing investors." G. S. 62-133

The first factor prescribed by the statute in determining fair value, the original cost (less depreciation) of CP&L's investment in plant is not disputed. There is no substantial dispute as to the retail allocations of that portion of the plant devoted to North Carolina retail service. The original cost gross plant in service, as computed by both the Staff and CP&L, was found to be

$635,479,000. The depreciation allowance was audited by the Commission Staff, and the depreciation rates used do not require adjustments. Depreciation reserve allocated to North Carolina retail business amounted to $123,199,000, and after standard adjustments for the test period, resulted in net original cost of plant of $556,346,000.

CP&L offered expert testimony and exhibits of the replacement costs of the property as "determined by trending such reasonable depreciated costs to current cost levels, or by any other reasonable methods" based on use of Handy-Whitman Index. The system undepreciated trended original cost of electric plant in service was determined by CP&L to be $1,365,821,000 which is 51% greater than the original cost. A substantial portion of the CP&L plant was built within the last two years prior to the test period and during the test period and its replacement cost is very little, if any, more than original cost. CP&L's annual reports filed with the Commission show $322,502,000 in system-wide utility plant additions in the three years 1968, 1969 and 1970. An additional portion of the CP&L plant consists of the hydroelectric plants and older steam plants of small size compared to modern design generators, and resulted in trended cost which the Commission finds exceeds the actual fair value of the plant as compared to the replacement of such plant by plant of modern design of large capacity similar to the more recent CP&L plant. For this reason, the Commission finds that such plant does not have a fair value properly related to the trended cost of such plant as shown by CP&L's trended cost evidence arrived at by taking the old plant as actually built and applying increases of the materials and labor involved in constructing outmoded plant based on today's materials and prices. For the above reasons, the Commission has considered the fair value of the CP&L plant is not represented by the trended cost of the existing plant and lies between such trended cost and the original cost, as found by the Commission in the Findings of Fact and Conclusions, as hereinafter set forth, but not as close to trended cost as contended for in the company testimony.

CONSTRUCTION PROGRAM

Mr. Shearon Harris, President, Chairman of the Board of Directors and Chief Executive Officer of Carolina Power and Light Company, testified substantially as follows:

The Company owns and operates seven steam electric generating plants, four hydroelectric plants and twenty-two internal combustion turbine units, having a capacity of 4,300 megawatts (MW). At June 30, 1971, CP&L's total system capability, including power available on a firm commitment basis, was about 4,600 MW. The Company owns and operates an integrated transmission network and distribution system throughout its service area, and its facilities are interconnected with the systems of neighboring utilities at

nineteen points in order to provide for the interchange of power.

While on the national average the usage of electricity has doubled in the last ten years, electrical consumption has doubled on the CP&L system in the last six years, and is forecast to double again in the next seven years.

On June 30, 1971, CP&L served 574,885 customers versus only 486,307 customers in 1965, or a total growth of 88,578 customers or 18%. The 1965 peak demand was 1931 Mw and the June 1971 peak demand had increased to 3625 Mw. Over the past 5-1/2 year period, CP&L's total system capability, including firm commitments for purchased power, expanded from 2177 Mw in 1965 to 4566 Mw at the end of June 1971. Energy sales during this same period of 1965 to mid-1971 almost doubled from 9.7 billion Kwh to 18 billion Kwh for the twelve months ended June 30, 1971.

A large portion of the growth in energy sales and required capacity was the result of a tremendous growth in new and expanding industry, a development which would not have been possible without an abundant supply of electric energy.

Industrial growth is in a large measure responsible for the corresponding growth in residential consumption of electricity. The average annual Kwh sales to a residential customer was 6620 Kwh in 1965 and by June 30, 1971, this had climbed to 10,032 Kwh. CP&L's residential customers were using 38% more electricity than the nation average in 1970.

CP&L forecasts energy sales to be over 32.4 billion Kwh by 1976 an increase of almost 90% over the 1970 level of 17.3 billion Kwh, and by 1980 CP&L energy sales will be over 48.7 billion Kwh or 2.8 times 1970. The peak of 3484 Mw in 1970 was expected to rise to 6591 Mw in 1976 and to 10,951 Mw in 1981.

In view of this anticipated growth, CP&L must more than double its plant capacity by the end of 1976 in order to assure the availability of adequate power in its service area. Between the end of 1970 and 1976 the Company will have completed seven steam electric generating units, four conventional and three nuclear, near Asheville, Roxboro, Southport, Wilmington and Hartsville, S. C. The total additional capacity from all these units will be more than 3.9 million Kw as opposed to the total installed plant capacity of 3.3 million Kw at the end of 1970. Numerous extra high voltage transmission lines, distribution lines and substations would be built to accommodate the expected loads.

CP&L completed Roxboro 1 and 2 for $82 per kilowatt in 1968, and Roxboro 3, now started on the same site, would cost $126 per kilowatt, or an increase of 54%. For nuclear units, Mr. Harris gave costs of $114 per kilowatt for Robinson No. 2, $153 per Kw for Duke's Oconee 1 and 2 to be

completed in 1972, $210 for VEPCO's Surry 1 and 2 expected in service in 1972 and $233 for CP&L's 1974 and 1975 plans near Southport, or an increase in cost of 102% over Robinson No. 2.

The unusually rapid lead growth in recent years has resulted in lower reserve margins than desired. To be realistic, any analysis of CP&L's plant account and earnings in recent years must recognize that CP&L revenues have been larger than normal because CP&L's reserve capacity was used down to a very low level, and accordingly an appropriate upward adjustment of CP&L's plant account should be made.

CP&L's construction program is designed to achieve a reserve equal to 18% of its capacity. The cost for the ten-year period 1971-1980 was about $3.5 billion. CP&L will be spending an average of about $738,000 per day during 1971-1973 or $808 million as compared to a total net plant account of only about $820 million built up over 65 years of operations at the end of 1970.

CP&L's construction program is the largest percentage expansion of any major electric utility in the country during 1971-1973 and will cause correspondingly great capital requirements. Environmental legislation is having a great impact on Carolina Power and Light Company's plant expenditures and operating expenses.

The total cost of CP&L's construction program through 1980 would be $3.5 billion of which $3 billion must be raised through the sale of new debt and equity securities.

The following points were among those brought out in Mr. Hipp's cross-examination of Mr. Harris:

CP&L expended approximately $107 million between the end of 1969 and June 30, 1971, for new transmission and generation facilities. $5 to $10 per Kw of the approximately $125 per Kw cost of Asheville No. 2, was for non-revenue producing precipitator equipment for the control of particle emissions into the air.

CP&L has plans to sell energy during any given year in which a large generating unit would come on the line and over 18% reserve would be available. There are arrangements between Duke, VEPCO, SCE&G and CP&L wherein the companies can build larger, more economical generating units by selling a portion of the energy from a large unit to a pool member until the generator owner needs the full capacity. CP&L has entered into some purchase agreements for power in order to delay building a plant until a larger, more efficient unit could be built. An example is the Asheville area requirements which were fulfilled by a purchase agreement with American Electric Power and Appalachian Electric Power Company. AEP built an even larger, more efficient unit than it had planned, and served 100 Mw to

CP&L's Asheville area until CP&L's load was large enough to support a large unit at Asheville.

During cross-examination of Mr. Harris, Mr. Hudson referred to Mr. Harris' testimony about CP&L's present need for the construction of a great number of new and expensive plants, low reserves and the plants being needed to meet increased demands and to increase reserves. Under Mr. Hudson's cross-examination, Mr. Harris testified substantially as follows:

Adequate planning could not have forecast this situation, and construction could not have been scheduled at an earlier date before the effects of inflation had set in so that total construction costs would be less.

Outside consultants made independent studies of CP&L's growth and these were compared with CP&L's estimates.

Examples of the increased expenditures are for environmental controls in CP&L generating plants are the $2 to $3 million more expensive, but more efficient, electrostatic precipitator on Asheville No. 2, and the triple redundancy, rather than double redundancy, now required in the safety systems in nuclear plants.

FUEL

Since the increased cost of fuel has been a major factor which has caused the decline in net income of Carolina Power and Light Company, both the Company and the Staff presented fuel witnesses.

Mr. Shearon Harris testified substantially as follows:

Fuel was CP&L's largest expense and if the test year consumption of coal had been consumed at the "burned" price of January 1970, CP&L would have been spared an extra expense of $21,250,000. Fuel was not the only increase in costs. Wages, maintenance expense, and capital costs have also risen markedly.

More than 96% of the electricity generated by CP&L in the test year was from fossil fuel burning plants. Fuel expense rose from 31.94 cents per million BTU in 1969 to 42.09 cents in 1970 to 47.90 cents in the test period ended June 30, 1971. CP&L expects the fuel expense to be about 47.74 cents for the calendar year 1971.

The Company's long term planning for current fuel procurement commenced in the early 1960's and the first long term contracts were negotiated in 1965. Through the mid-1960's the price of spot coal was below the price of contract coal and the company had purchased only spot coal. Two contracts were consummated in early 1966 and 1967 for the opening of new mines for an eventual delivery of 2.7

million tons annually. Additional contracts involving 1.5 million tons annually were also entered into at this time.

Had the Robinson No. 2 (700 Mw) nuclear unit been able to be placed into service as originally scheduled in May 1970, the Company would have been able to cut down on the purchases of spot coal and would have received most of the coal during the test period at favorable prices.

A number of things happened in the prior 18 months over which CP&L had no control relative to coal supply and price. Included were the implementation of the new Federal Mine Health and Safety Law, increased export demand, labor troubles, shortages of rail cars, increased wages for miners and generally rising costs for mining materials and supplies. Whereas the productivity per manday at the coal mines had been steadily increasing up through 1969, the situation changed drastically in 1970 and 1971, and productivity per manday declined. Productivity relates to more than just contract coal. Declining productivity was reflected in spot market prices. There was a time within the last two or three years when an underground mine might have averaged 18 tons per manday, but with the imposition of Mine Safety Laws and other factors, productivity has decreased to 12 to 15 tons a day in some mines. The high productivity of surface mines of around 35 tons per manday are offset to some degree by costs of reclaiming the land.

The following points were among those brought out during Mr. Hipp's cross-examination of Mr. Harris.

With respect to the test period, there were four long-term contracts for coal supply. One was calculated to yield a little more than two million tons a year, another would yield 550,000 tons a year, one would yield a million tons a year, and the fourth would yield about 480,000 tons a year. Two more contracts have been entered since the test year for delivery starting in 1973 or later.

The total coal under contract for the calendar year 1971 was 5,030,000 tons. CP&L has estimated 1971 requirements of six million tons. CP&L will receive 70% of the contract coal in 1971. This is representative of the experience that CP&L is undergoing. CP&L expects to receive only 58-1/2% of its burn requirements for 1971 under contract, and the rest will come from the spot market.

(For purposes of clarity, letter designations were given to each mine. The following table shows data introduced by Mr. Harris.)

Company	1971 Tonnage	1972 Tonnage	Contract Quality BTU/Lb.	3rd Quarter 1971 Approx. Price/Ton fob Mine	Type Mine
A	2,200,000	2,400,000	12,800	$ 7.10	Underground
B	1,000,000	1,000,000	13,000	6.10	Underground
C	550,000	137,500	13,000	7.25	Strip and Auger
D	480,000	480,000	13,650	11.25	Underground
E	600,000	720,000	12,800	8.50	Underground
F	200,000	500,000	13,000	8.00	Underground and Strip and Auger
	5,030,000	5,237,500			

Coal contracts have base prices, penalty and premium clauses, and escalation clauses for increases in certain mine costs as well as force majeure clauses. Force majeure clauses set out the conditions under which the coal supplier may be excused from shipment.

The following points were among those brought out in Mr. Benoy's cross-examination of Mr. Harris:

1) While CP&L has had the right to cancel the contract of Mine D because of non-delivery since September 1971, CP&L has been replacing the coal in a lower priced spot coal market and has saved a total of $18,000 over the last year and a half, 2) CP&L needs the availability of this high quality coal in order to get the maximum capability out of its generating plants, 3) At the time the Lee and Weatherspoon plants requiring 13,000 BTU per pound coal were built, coal of 13,000 and greater BTU per pound was available, and 4) High quality coal is needed at these plants and is needed elsewhere to blend with low quality coal.

Mr. Harris and Mr. Benoy debated at great length the contract dispute with Mine B which CP&L submitted to arbitration. CP&L was awarded for the low quality coal received from Mine B and the costs of replacing the contract quantity, but the mine was allowed to recover for increased costs due to mine safety legislation. As of March 3, 1972, CP&L was awarded $1,191,917 damages which was reduced to $632,303 by the mine safety costs awarded to the mine. The net difference at September 30, 1971, had been reduced to $182,000 awarded to CP&L. Costs attributable to mine safety legislation at Mine B were approximately 4.8 cents per million BTU.

Mr. Harris indicated that CP&L undertook to demonstrate to the Arbitration Board the fuel purchasing practices of CP&L, and introduced paragraph 21 of the arbitration order as evidence of CP&L's good judgment in buying coal in the spot market to replace non-delivered coal.

"21. During the 26 month period, CP&L purchased coal in accordance with sound managerial practice and in a commercially reasonable manner consistent with its general coal procurement policies which were appropriate to its required procurement of between 5,000,000 and 6,000,000 tons of coal per year."

Mr. Harris' next comments were:

"Now, if anybody could challenge our spot market practices, we acknowledge these people know the coal business, and they undertook to challenge it and we undertook to say to this Board what we do in these practices, and we were found to have been engaged in good business management practice."

Concerning a quantity of 469,000 tons of coal from Mine B upon which CP&L was awarded damages for non-delivery, Mr. Harris accepted, subject to check, that the award translated into 5 cents per million BTU. Mr. Benoy cross-examined Mr. Harris, concerning Mr. Harris' earlier testimony wherein it was alleged that the Commission's allowance of 41.5¢ per million BTU as a reasonable cost of coal was unfounded in the face of CP&L's actual cost of 47¢/MBTU. Mr. Benoy asked if the 5¢/MBTU award added to the 41.5¢/MBTU previously allowed by the Commission did not come out to be approximately the cost of coal in 1970 in the previous rate case. Mr. Benoy, under questioning from the bench, stated that "the only reason for this line of questions was the statement of this witness (Harris) that this Commission made a grievous mistake in the allowance of its coal cost, and I am trying to point out, your Honor, when they followed their remedies of law as to the breach of those contracts, it came out to the reasonable cost of coal on the tonnage we know of, correlated right precisely between the reasonable cost of coal and the cost they were actually paying." Mr. Howison, counsel for the Company, countered that all the 460,000 tons in question was not related to the test year and called it a fallacy in Mr. Benoy's argument.

Mr. Harris further testified that the Company pursued the remedies available to it pursuant to the terms of coal contract agreements whenever coal companies did not supply or deliver according to contract, and that the quality of the coal bought to replace that from Mine D was below 13,650 and generally in the range of 13,300 to 13,500 BTU per pound.

Mr. Edwin E. Utley, Manager of the Generation and Systems Operations Department of Carolina Power & Light Company, testified substantially as follows:

CP&L's coal consumption increased from 1,840,251 tons in 1960 to 5,923,441 tons in 1970. During the same period, the Company's consumption of gas, stated in equivalent tons of coal, increased from 0 to 509,204 tons; while consumption of light oil stated in equivalent tons of coal, increased from

5,835 tons in 1960 to 34,741 tons in 1970. The Company's total expenditures for fuel increased over four times from $13,961,780 in 1960 to $69,013,927 in 1970.

Prior to 1966 all of the coal purchased by CP&L, except small amounts delivered in October through December 1965, was procured in the spot market. The price per ton of spot coal was lower on the average than the price of an equivalent ton of contract coal.

In 1965 CP&L made a decision to place a substantial percentage of its anticipated coal requirements under contract. The following reasons were given as to why such a decision was made:

1) The significant increase in demand by the industry;

2) Difficulties encountered in 1963 in obtaining an adequate supply of coal;

3) The Company's rapidly expanding rate of consumption of coal; and

4) The recommendations of Ebasco Services.

During 1966, 1967 and 1968 the system average purchased price per ton of spot coal, f.o.b. mine, was $3.72, $4.40 and $3.90, respectively. The system average of contract coal, f.o.b. mine, for the same three-year period was $4.32, $4.50 and $4.34. These price comparisons show that it was prudent to place only sufficient coal under contract to assure an adequate supply, but leaving the Company an opportunity to purchase as much spot coal as practical under the then prevailing lower spot prices.

Higher prices began to be felt in the spot coal market for the first time in 1966. The 1966 amendments to the Federal Mine Safety Act of 1952 caused many of the small, marginal producers to go out of business. Increased unionization of the smaller mines created higher overhead expenses and limited the mine operator's flexibility in the efficient utilization of his manpower. The closing of these small mines reduced coal production, and the reduced supply had the effect of increasing the price of coal in the spot market.

CP&L's system average price for spot coal, f.o.b. mines, in 1970 was $8.70 per ton as compared with $4.87 per ton in 1969, an increase of 79%. The system average for contract coal, f.o.b. mines, was $6.08 per ton for 1970, a 32% increase over the 1969 price of $4.59 per ton. Such factors as more stringent safety laws, increased exports, work stoppages, and increased costs caused the coal prices to increase substantially during 1970.

Coal provided 145,737,519 MBTU of the total 164,561,429 MBTU required for the test year fossil fuel energy

requirements. The cost of fossil fuel consumed for the test period was 48.94¢/MBTU or an increase of 6.85¢/MBTU over the calendar year 1970 cost of 42.09¢/MBTU. The 6.85¢/MBTU increase amounted to about $11,272,458 additional cost of fossil fuel consumed for the test period ended June 30, 1971, over 1970.

Up until 1970 CP&L was able to obtain the quality of coal it needed in the amounts it required. The desired system-wide minimum stockpile BTU content level of about 12,500 BTU had been maintained over the year until mid-1970, when the quality deteriorated to an all-time low. In order to raise the BTU value of its coal stocks to at least the minimum level, CP&L ordered higher quality coals. It was necessary to pay premium prices to obtain the higher quality coal, thus raising the overall coal price.

The following are reasons why it has been necessary for CP&L to recently obtain substantial amounts of coal on the spot market:

1) The failure of the Robinson Nuclear Unit to come on the line in May 1970 as scheduled; and

2) Contract coal suppliers were unable to make all of their contract deliveries. CP&L is in arbitration relating to the issue of non-delivery of certain coal.

Both spot and contract coal prices will continue to increase in the future. Factors which could cause this increase include:

1) Further effects of the Federal Mine Health and Safety Act of 1969;
2) Laws affecting the cost of reclamation of land;
3) Wage increases;
4) Cost increases for materials and supplies;
5) Losses in productivity;
6) Freight rate increases;
7) Labor shortages;
8) Increased demand among domestic and foreign users; and
9) Pollution control measures.

As an alternative to a coal-fired generating plant, CP&L considered converting its coal-fired Units 1 and 2 at its L. V. Sutton Plant to use heavy oil as early as 1964. According to the Company's evaluation, the conversion was not deemed economical. In 1969 when the third Sutton unit was committed for construction, the Company decided to install oil-firing capability in that unit. At that time, cost studies showed that it would also be economical to adapt Units 1 and 2 to burn oil as well as coal. The market price of oil then was about 33.5¢/MBTU as compared to a coal cost of 36¢/MBTU for the Sutton Plant. The possible use of residual fuel oil in place of coal for some of the Company's

fuel requirements does not now seem to be feasible on any major basis.

The current estimate for the cost of nuclear fuel for the H. B. Robinson Nuclear Unit, with a 70% first cycle load factor, is 20.10¢/MBTU. The first cycle of operation is scheduled to end in October 1972.

"The 70% load factor for the Robinson Nuclear Unit is a composite average factor which was applied to the 1971 and 1972 projected generation of the unit and was selected to 1) achieve as nearly as possible the design burnup of the core, 2) permit refueling during off-peak electrical demand, 3) permit full load operations during high demand periods as well as variable loading on the unit in accordance with system requirements and incremental fuel cost dispatch, and 4) represent a figure historically approached by other nuclear units during their initial year of operation."

Mr. Utley concluded his testimony by stating, "In view of the greatly increased demand for all forms of energy, the effect of mine safety regulations, the likelihood of higher wage and pension costs, environmental control, higher freight rates, and the other factors I have discussed, it is probable that the cost of fossil fuel for our Company will continue its upward trend, although hopefully at a much more modest rate than over the past 18 months."

The following points were brought out in Mr. Hipp's cross-examination of Mr. Utley:

The loads carried by any plant at any particular time are controlled by a computer to achieve the highest system efficiency by factoring in fuel cost, transmission losses, and incremental load curves for each unit.

Sutton Units 1 and 2 are being converted and Sutton Unit 3 is being constructed to burn either coal or oil, and CP&L has entered into a contract with Humble Oil & Refining Company for the supply of oil. The price of oil rose from approximately 33.5¢/MBTU to 65¢/MBTU for 1972 before the contract could be consummated.

Pressure from the State of West Virginia and strip mining operations caused a decrease in production from one of its suppliers and consequently a shortage of deliveries to CP&L. The Company is investigating the shortage to determine if the shortage resulted from a lack of production or a diversion of coal to other buyers. The Company investigates all non-deliveries of coal as to its rights under the contracts and pursues the matter in instances where the Company has reasons for recourse.

CP&L must have 13,000 BTU/lb. coal for some of its plants to achieve maximum capacity. These plants were built based on past experience which indicated the lower construction, maintenance and freight costs along with "adequate" supply

of high quality coal would make high quality coal plants more economical than low quality plants. However, the supply of high quality coal is presently decreasing with the demand remaining constant, thereby indicating that the cost of high quality coal will increase in the future. This will have a dramatic effect on the cost of fuel for CP&L.

The following points were among those brought out in Mr. Hudson's cross-examination of Mr. Utley:

Carolina Power and Light Company was not getting the quality of coal it must have to meet the system load with its existing plants. The Company is studying the situation to determine a way to purchase the quality of coal required.

The Company has entered into an increasing number of long-term contracts in an attempt to guarantee an ample supply of high quality coal. The Company test-samples at least 20 percent of the cars of coal received. The State of North Carolina limits the sulfur content of coal consumed to approximately 1.5%. Modification of existing plants to burn low quality coal is not feasible, but low quality coal is considered in the design of new plants.

The computer system for economic dispatch and system loading was developed by the Leeds and Northrup Company and new units are connected into the economic dispatch system; however, the I.C. turbine units are not included in the computerized economic dispatch.

In each year 1965-1970 CP&L's actual coal consumption has been greater than its estimated coal consumption; however, this is due to accelerated system growth and nuclear plant delays. It is Company practice to have an assured supply of coal for plants when the plants begin operation.

The following points were among those brought out in Mr. Benoy's cross-examination of Mr. Utley:

The shortage of high BTU coal has been increasing the last few years and is becoming more pronounced as time passes. In 1967, as an average, the spot coal price was $4.40 per ton as compared to $4.10 and $4.25 per ton for CP&L contract coal. The price of spot coal declined from January 1971 to August 1971. It was not reasonable in 1967 and 1968 to predict the condition of the coal market as it turned out in 1970 and 1971.

There is some documentation that coal companies were using long-term contracts to borrow money to invest in new mines in 1967 and 1968 and some coal companies were interested in getting long-term contracts. Freight rates are considered in determining which coal is going to which plant. The nuclear fuel market is currently soft with little competition and the feasibility of entering into long-term nuclear fuel contracts to protect CP&L from rising nuclear fuel prices is doubtful.

Dr. Bruce Netschert, Vice President of National Economic Research Associates, Inc., testified substantially as follows:

Many factors have influenced the fossil fuel markets during the period 1963 to the present. Coal fuel accounted for 55.3% of the thermal generation of power by electric utilities in 1970. For the same period 28.8% of the generation was by use of natural gas, 14.1% by oil, and 1.7% by nuclear fuels.

The adoption of stricter air pollution regulations places coal at a competitive disadvantage to the other fuels because of the sulfur content. All coals contain sulfur in varying degrees while natural gas and nuclear power are sulfur free. While residual fuel oil shares coal's disadvantage of natural sulfur content, it is possible to reduce its sulfur content to an acceptable level.

The consumption of coal by the electric utilities increased by 53.3% between 1963 and 1970. During the 1963-1970 period of total market growth, the price of steam coal stayed virtually constant until 1965. An increase in productivity offset an increase in wage costs of 10.8% in the three years 1963-1965.

Since 1965 it has not been possible to offset increased labor costs in the coal industry with increased productivity, since productivity has risen less than labor costs. The most important factor since 1970 that has prevented the industry from increasing its productivity at a rate sufficient to absorb increased labor costs has been the Federal Mine Health and Safety Act of 1969. The Act constitutes such a drastic tightening up of safety standards and introduces so many new regulations that the trend of improvement in productivity has been halted and reversed. The significance of this for the electric utility industry is that many purchase contracts have escalation provisions which take productivity into account, so that any decline in productivity is passed on to the buyer in the form of a price increase.

Coal prices in Districts 7 and 8, the districts from which CP&L purchases all of its coal, rose appreciably more than the national average. As shown by the index figures of an exhibit, between 1963 and 1970 the increase was 78.6% and 69.4% in the two districts, compared with a 42.6% increase nationally. Increased demand for coal from Districts 7 and 8 coupled with decreased production caused the cost of coal to rise.

The following are expectations for the delivered cost of coal from Districts 7 and 8 for the years 1972 and 1973:

1) Continued tightening of air pollution standards will maintain the pressure on the supply of low sulfur coal, most of which in the East comes from Districts 7 and 8.

2) There will be further increases in wage costs.

3) The labor force for underground mining will not grow to keep pace with industry capacity.

4) General inflation will continue.

5) To the extent that new taxes are imposed on coal mining, the increased costs will be passed on to the utility coal customers through escalation provisions.

6) Adjustments of the coal industry to the provisions of the Mine Health and Safety Act may be expected to provide further upward pressure on costs, and further increases in freight costs will also raise delivered prices.

Residual oil is a possible fuel source for CP&L; however, the national average yield of residual oil from the crude barrel went from 20.2% in 1950 to an average of 6.4% in 1970. Most United States refineries now produce no residual oil at all.

The price of residual oil with 1% maximum sulfur rose by 98.4% from the beginning of 1969 to May 1971. The price of higher sulfur oil also rose, since much of the new demand was not merely an existing demand for residual oil converted to a demand for low sulfur residual, but was a completely new demand. This increased demand, plus the intention of oil exporting countries to further increase their share of the profits on their oil exports, will maintain upward pressure on residual oil prices during the next year or so.

Concerning the reasonableness of CP&L's fuel purchases over the last few years, Dr. Netschert concluded his testimony by stating, "In my opinion Carolina Power and Light has exercised reasonable judgment in contending with changes that were both unforeseen and unforeseeable."

In answer to cross-examination questions, Dr. Netschert stated: 1) the present spot coal prices are lower than the peak spot prices of 1970; and 2) Phase II of the wage and price controls of the Economic Stabilization Act of 1970 would not be more than partially successful in holding down upward cost pressures in the coal industry.

Testimony of Staff Fuel Witnesses

Mr. Paul Fahey, Commission Staff Coal Consultant, testified substantially as follows: There was a rapid increase in the price of coal in 1970, with the increase reaching its peak late in the year. Some of the increase was due to an apparent willingness on the part of the buyers to pay any price, reasonable or unreasonable, because most large users of industrial coal were having difficulty in maintaining an adequate supply. The problem started in 1969 when mining production did not equal consumption by users; however, the large demand for coal at very high prices in

1970 resulted in some increase in production and prices began to firm up, and even decrease, and substantial quantities of coal were available by the spring of 1971.

In regard to Carolina Power and Light Company, CP&L bought non-guaranteed spot coal much longer than was necessary and consequently, paid a much higher price for the heat content received, since the coal was consistently received with a heat content well below the represented order value. Concern over stockpile size could not have justified continuation of this practice since stockpiles increased from an 81-day supply in September of 1970 to a 126-day supply in February of 1971. After April of 1971 when CP&L started receiving guaranteed spot coal, the sellers supplied a better quality of coal, resulting in a lower price for heat content. The following are examples of differences in the cost of guaranteed and non-guaranteed coal:

1. At the Asheville plant, the guaranteed coal in September, 1971, cost 41.54¢/MBTU while non-guaranteed coal in December, 1970, cost 55.37¢/MBTU.

2. In January of 1971, seven orders totaling 28,500 tons of coal represented at 47.07¢/MBTU were received on a non-guaranteed basis at the Asheville plant at a cost of 57.96¢/MBTU.

3. Spot coal received on a non-guaranteed basis in September, 1970, averaged 60.10¢/MBTU while spot coal received on a guaranteed basis in September, 1971, averaged 44.29¢/MBTU.

"To my knowledge guaranteed 'spot' coal was available in September, 1970, or maybe earlier, in the areas from which Carolina Power & Light Company secured its coal." An insistence upon guaranteed quality for spot coal orders by CP&L some months earlier in May, 1971, would have improved the quality of its stockpiles and reduced its fuel cost.

In regard to coal under long-term contracts by CP&L, CP&L currently has six term contracts for the purchase of coal, with the quantity under contract for 1972 totaling 5,237,500 tons. With a pattern of assignment in 1972 similar to the one of September, 1971, the weighted average cost of coal under contract, delivered to the respective plants, would be 42.33¢/MBTU with a weighted average heat content of 12,940 BTU/lb. With an estimated coal requirement for 1972 of 139,114,211 MBTU, CP&L has more coal under contract than its anticipated requirements, especially when considering that the Asheville plant is supplied with spot coal. This suggests that CP&L should have cancelled its highest priced coal contract when the opportunity existed in September, 1971, but CP&L did not cancel it.

In regard to an estimated coal cost for 1972, allowing for increases from the new United Mine Workers of America contract and 1.0¢/MBTU for errors in judgment, CP&L should

pay 46.0 ¢/MBTU for coal in 1972. Increases in freight rates and the cost of mine supplies should be offset by actions of the various wage and price control agencies being established by the President. There is no real danger of strip mining being abolished by law, either State or Federal.

Mr. Fahey summarized the coal supply situation for CP&L in 1972 by stating, "Assuming data supplied the Commission Staff by Carolina Power & Light Company is accurate, it appears that a better job of planning the coal supply is needed.

The coal under contract for delivery in 1972 exceeds the estimated burning requirement. This leaves no room for the purchase of spot coal which is used, generally, to even out fluctuations in burning requirements, and to take advantage of seasonal price variations.

From Carolina Power & Light Company records made available to me, it appears that the Asheville plant is supplied 100% with spot coal. If this practice is continued in 1972, it will make the difference that coal under contract exceeds the burning requirement by more than 600,000 tons.

Carolina Power & Light Company bought substantial quantities of coal with relatively low heat value at high prices during a period their stockpile was at a very high level in terms of number of days' supply.

With the current high cost of money continuing, vigilance and effort are necessary to keep the stockpile within reasonable limits.

Except for the one very high priced contract, the coal contracts of Carolina Power & Light Company are not unreasonably high in price. I feel that negotiation with the high priced contractor was unduly delayed in starting. Instead of waiting until the end of July, the negotiation could have started when Carolina Power & Light Company negotiated a contract with another supplier at a much lower cost per million BTU f.o.b. mine, effective January 1, 1971.

I like contracts with more definitive terms and conditions than generally exist in the Carolina Power & Light Company contracts. This eliminates misunderstandings and speeds adjustments. Better protection of the buyer should result."

The following point was discussed in Mr. Hudson's cross-examination of Mr. Fahey:

More definitive terms in CP&L's coal contracts would eliminate long arbitration proceedings.

The following points were brought out in Mr. Smith's cross-examination of Mr. Fahey:

Industries other than electric utilities offered fantastic prices for coal which forced the over-all price of coal up faster than normally expected from the Law of Supply and Demand. The export of coal was a factor in the decrease of the available supply of coal; however, it was of less importance than some people believe. Mine Health and Safety legislation decreased the amount of production and increased the cost of production, with the increase in the cost of production resulting in a greater impact on coal prices.

(Mr. Smith contended that CP&L was ordering necessary high quality coal.) Repeated failures of the sellers to deliver the quality of coal ordered should have indicated that CP&L was not going to receive this high quality coal and CP&L should have ordered a lower quality coal guaranteed at a quality less than CP&L desired, but higher than it was receiving. This coal would have been less costly based on heat content than that coal which CP&L was receiving. Mr. Fahey accepted 40.82¢/MBTU as the 1970 burned fuel cost for CP&L and 40.52¢/MBTU for Duke Power Company's 1970 burned fuel cost but added that he did not know what was included in either Company's "burned cost". If CP&L's Robinson No. 2 nuclear unit had come on as originally scheduled in May, 1970, then CP&L would have had to buy substantially less coal in the spot market.

All electric utilities in this general area were having tremendous problems with coal supply. CP&L bought heavier than was necessary at times, but this was due to CP&L's fear because its coal stockpiles started to decrease.

The availability of coal increased and prices leveled out and began to decrease in the Spring of 1971.

Mr. Fahey admitted that since the preparation of his testimony, a CP&L estimate of coal consumption for 1972 had been made available. Based on this information, CP&L had 466,000 tons excess reported. If CP&L received only 80% of its coal under contract, it would be necessary to purchase 50 million BTU of coal on the spot market; however, only 80% performance on coal contracts is not enough. (Mr. Harris testified that CP&L was receiving about 70% of coal under contract.)

Five of CP&L's coal contracts are good contracts at a reasonable price, but one contract is priced too high. This 13,650 BTU/lb. coal under contract is costing an unnecessary premium for quality, when the boiler design requires only 13,000 BTU/lb. coal and 13,000 BTU/lb. spot coal is available at a lower price. (Mr. Fahey would not agree with Mr. Smith's contention that this higher quality coal was needed for maximum plant capacity.)

Mr. Fahey's predicted 46.00¢/MBTU 1972 coal cost for CP&L was a "delivered cost", not a "burned cost". A 24-ton per man-day productivity for estimation of CP&L's 1972 coal cost was used by Mr. Fahey.

Mr. Robert K. Koger, Director, Commission Staff Engineering Department, testified substantially as follows:

Carolina Power & Light Company's conversion to a larger percentage of generation by nuclear units over the next few years should result in significant unit cost reductions in its production expense. No reduction in generation expenses resulting from nuclear generation can be expected in the immediate future (1972) due to mechanical difficulties and a 70% maximum predicted load factor at the Robinson Nuclear Unit for 1972. The staff has made an investigation of the predicted load factor for the Robinson Unit.

One reason for the 70% load factor for the Robinson Nuclear Unit is it is necessary to plan the refueling of nuclear generation units in periods of low load such as the spring and fall, so that the Unit will be available to handle the peak load of summer and winter. It is therefore necessary to manipulate the load factor of nuclear units so that refueling coincides with the periods of low load. Another reason for the low load factor is to insure that sufficient capacity will be available to meet the quick-load buildup on cold winter mornings. To accomplish this, more fossil units must be on the line, at higher loading, than during other times of the year. Three reasons contributing to this are 1) the length of time required to bring a unit from shut-down to full load, 2) silica conditions in the steam drum limit the rate of load buildup on a unit, and 3) freezing conditions at plants.

In response to cross-examination by Mr. Smith concerning 1972 production expenses predicted by the staff, Mr. Koger stated that the staff had determined the difference in "delivered" and "burned" costs to range between 0.3¢/MBTU and 1.0¢/MBTU.

Mr. Andrew W. Williams, Commission Staff Nuclear Engineer, testified that the production expenses for 1972 allocated to North Carolina Retail will increase over the test year by $2,429,152, using Carolina Power & Light Company's generation mix and estimated costs will increase over the test year by $2,599,012 assuming no natural gas available and Carolina Power & Light Company's estimated costs will decrease by $464,029 using Carolina Power & Light Company generation and Mr. Fahey's estimated coal cost, and will decrease $385,645 assuming no natural gas available and Mr. Fahey's estimated coal cost.

In response to cross-examination by Mr. Smith, Mr. Williams stated that when considering the maximum 1.0¢/MBTU difference in "burned" and "delivered" costs for Carolina Power & Light Company added to the 46.00¢/MBTU delivered cost predicted by Mr. Fahey for 1972, the production costs given for 1972 using Mr. Fahey's predicted cost should be increased by approximately $700,000.

INTEREST CHARGES

Carolina Power and Light presented voluminous testimony and exhibits relating to the cost of senior debt capital, including the testimony of its President, Shearon Harris, its Financial Vice President, Edward G. Lilly, Jr., and its expert Utility Financial Consultants: Paul Hallingby, Jr., of White, Weld & Company and L. Sanford Reis, President of Reis Chandler, Inc.

The Commission's Staff presented testimony (and related exhibits) on these matters from its consultant, David A. Kosh, a recognized public utility consultant and expert in public utility financing.

Testimony and exhibits of these witnesses reflect the following factual data and information:

Interest rates on long-term debt have risen steadily from 1968 through August, 1970, and have since declined slightly up to the present time. Carolina Power and Light, for example, sold bonds with the following cost of money:

October 1968 - 6.87%	August 1970 - 8.85%
January 1970 - 8.79%	January 1971 - 7.42%

These rising interest rates, at a time when Carolina Power and Light's capital requirements have been unusually heavy due to its large construction programs, have caused the imbedded cost of Carolina Power and Light's long-term debt to increase from 4.72% at December 1969 to 5.89% at June 30, 1971, the end of the test year in this proceeding. This increase in the imbedded cost of long-term debt requires about $3.7 million in additional annual interest charges, based on Carolina Power and Light's test year capital structure, allocated to its North Carolina retail business.

Carolina Power and Light Company's total interest charges including long- and short-term debt on an annualized basis were $30,093,964 for the test year, with $21,039,232 of this total being allocated to the North Carolina retail operations.

Under Carolina Power and Light's Bond Indenture (Section 27) additional Bonds may not be authenticated and delivered upon the basis of property additions unless, as shown by a net earnings certificate, (which means net earnings before income taxes) the "net earnings" of the Company for 12 consecutive calendar months within the 15 calendar months immediately preceding the first day of the calendar month in which delivery of the additional bonds are made to the Trustee, shall have been equal to at least twice the amount of the annual interest charges on all first mortgage bonds outstanding plus the additional bonds proposed to be issued. The amount of earnings available to cover fixed charges are on allowable expense before income taxes are computed. Based on the test year operations and after accounting and

pro forma adjustments, the interest charges coverage ratio computed before income taxes was 2.22 times at the present level rates and will be 3.22 times after the increase in rates herein approved. The interest charges used in computing these ratios includes all long- and short-term interest charges annualized.

These interest charges coverage ratios are much smaller than prevailed prior to 1968 when interest rates were much lower than presently exist. Much expert financial testimony was presented in this hearing as to the weight the Commission should give to the interest charges coverage ratio. Carolina Power and Light's witnesses favored a ratio considerably higher than the bond indenture of two times, contending that a higher ratio would protect Carolina Power and Light's bond rating and thereby cause the interest rates on its future bond sales to be lower than would prevail if earnings were only sufficient to provide the lower or minimum bond indenture coverage ratio. Mr. Kosh, on the other hand, argued that so long as the coverage ratio met the bond indenture ratio, Carolina Power and Light could attract its long-term debt capital at reasonable and competitive interest rates.

Data presented by all the cost-of-money witnesses show that Carolina Power and Light's interest coverage ratios have declined from pre-1968 levels but to no greater extent than other utilities and non-utility companies which have maintained similar capital structures and have had similar large long-term debt capital requirements during the 1968-1971 period of increasing high interest rate levels. Staff rate of return witness Kosh contended that the additional revenue dollars which would be required to maintain pre-1968 coverage ratios during this period of high interest rates and heavy demand by Carolina Power and Light for long-term debt capital would be more costly to the ratepayer than would be the higher interest cost that might result if Carolina Power and Light's bond ratings were to be slightly lowered. Actual bond sales by Carolina Power and Light during the 1968-1971 period show that Carolina Power and Light has remained competitive in its ability to attract long-term debt capital.

FINDINGS OF FACT

1. That Carolina Power & Light Company is duly organized as a public utility company under the laws of North Carolina, holding a franchise from the Utilities Commission to furnish electric power in a major portion of North Carolina, under rates and service regulated by the Utilities Commission as provided in Chapter 62 of the General Statutes.

2. CP&L supplies retail electric service in 200 communities, each having an estimated population of 500 or more, and supplies electricity at wholesale rates to municipalities and electric membership corporations; the

retail electric service was being supplied to 574,885 customers in North Carolina and South Carolina at the end of the test period on June 30, 1971.

3. That CP&L has invested $635,749,000 at original cost in utility plant in service for its North Carolina retail customers at the end of the test period June 30, 1971.

4. That the portion of said plant which has been consumed by previous use recovered by depreciation expense is $123,199,000.

5. That CP&L received contributions in aid of construction of said plant from its customers of $2,502,000, to be deducted from CP&L's investment in plant.

6. That the net investment at original cost of CP&L's plant in service under G.S. 62-133(b)(1), being original cost less contributions in aid of construction and portion consumed by previous use recovered by depreciation, is $524,424,000.

7. That the necessary cash working capital for North Carolina retail plant is $14,440,000, based on 45 days of operation and maintenance expense, and the necessary materials and supplies is $19,996,000, from which the Commission deducts Federal and State Income Tax accruals of $2,514,000, giving total working capital allowance computed as follows:

(a)	Cash working capital, based on 45 days operation and maintenance expense	$14,440,000
(b)	Materials and supplies	19,996,000
	Sub-total	$34,436,000
(c)	Less Federal and State Income Tax accruals	$ 2,514,000
	Balance	$31,922,000

8. The working capital balance of $31,922,000 set forth immediately above, when added to CP&L's original cost of plant to include necessary working capital, results in a total net original cost of plant in service at the end of the test period of $556,346,000.

9. Pursuant to the decision of the North Carolina Supreme Court in the Lee Telephone Company case, State of North Carolina, ex rel Utilities Commission v. Morgan, 277 NC 255 (1970), we have not included in CP&L's plant in service any sums expended or recorded on CP&L's books for plant which was not used and useful and in service at the end of the test period ending June 30, 1971, said exclusions at the end of the test period (based on system-wide accounts) being construction work in progress, $179,293,513, and property held for future use, $382,540.

10. That the cost of fuel, as a probable future operating expense, under G.S. 62-133(c), will not exceed the cost

actually experienced during the test year of 47.9¢/MBTU and further that a 47.9¢/MBTU fuel expense is a reasonable figure to use in estimating the immediately predictable future cost of fuel on an "equivalent" fuel cost basis. In estimating future fuel expenses to be proformed into test year data, it is necessary to refer to an "equivalent" fuel cost figure due to the effect of the large scale generation of power by nuclear facilities planned in the second half of 1971 and in 1972, said generation being characterized by much lower fuel costs (19.68¢/MBTU) but substantially higher annual carrying costs. The following paragraphs and table set out the Commission's findings on the individual components and projected fuel mix which result in its overall findings of 47.9¢/MBTU as a reasonable cost to be proformed into test year data. During 1972, CP&L will utilize a considerably different fuel mix than that used during the test period. Residual oil and nuclear fuel will be consumed in substantially larger quantities and the net result will be a decrease of approximately three and one-half cents per million BTU, which is equivalent to approximately .3 mills per KWH generated, based on test year generation. However, operations and maintenance expenses and carrying charges associated with the new and existing generation equipment will add .107 mills per KWH and .776 mills per KWH, respectively, which will slightly exceed the savings in per KWH fuel costs and the reduction in amount of purchased power planned over that purchased in the test year. (See following Table A which more clearly sets these figures out.)

In reference to the costs of the individual fuel components which form the basis for the 47.90¢/MBTU fuel cost proformed into the test year data, we find the following costs to be probable reasonable operating costs for the various fuels to be used in the Company's generation of power in the immediately predictable future.

(a) Coal - 47.00¢/MBTU (Company predicts 49.68¢/MBTU but we have adjusted for the wage and price controls and improved buying practices as ordered elsewhere in this Order.)

(b) "Light-off" oil - 87.90¢/MBTU (represents no expected price increase over test year.)

(c) "Dump gas" - 47.0¢/MBTU (price tied to price of coal.)

(d) Residual Oil - 65.38¢/MBTU (Price represents contract prices for Sutton Plant.)

(e) I. C. Turbine oil and gas - 86.0¢/MBTU (Price reflects greater dependence on oil during 1972.)

(f) Nuclear Fuel - 19.68¢/MBTU.

TABLE A

COMPUTATION OF ACTUAL AND PREDICTED GENERATION COSTS

Period	Type	Gen. (MWH)	Heat Rate BTU/KWH	BTU Consumed 10Exp6 BTU	Cost $	Cost ¢/MBTU	Mills/ KWH
	Coal	--	--	145,737,519	69,606,498	47.76	--
	Oil	--	--	835,404	734,323	87.90	--
	Dump Gas	--	--	13,165,900	6,415,612	48.73	--
Test Year	Subtotal	16,318,809	9,788	159,738,823	76,756,433	48.05	4.7036
	I.C. Turbine Gas & Oil	348,827	13,825	4,822,606	3,772,758	78.23	10.8156
	Nuclear	482,589	11,912	5,748,614	1,057,271	18.39	2.1908
	TOTAL	17,150,225	9,930	170,310,043	81,586,462	47.90	4.7572
	Coal	--	--	Appx 139,114,211	65,383,679	47.00 (Fahey)	--
	Oil	--	--	Appx 792,934	696,989	87.90	--
	Dump Gas	--	--	Appx 12,564,958	5,905,530	47.00 (Adjusted)	--
1972	Subtotal	15,623,726	9,760	152,487,352	71,989,279	47.21	4.6077
	I.C. Turbine Gas & Oil	462,780	14,639	6,774,636	5,826,187	86.00	12.5895
	Nuclear	3,810,240	10,727	40,872,444	8,043,697	19.68	2.1111
	Residual Oil Sutton 3	1,585,489	9,524	15,100,150	9,872,478	65.38	6.2268
	TOTAL	21,482,230	10,019	215,234,582	95,731,641	44.48	4.4563

Expense	Test Year $	Test Year Mills/KWH*	1972 $	1972 Mills/KWH*
Operation & Maintenance	11,816,802	0.6615	17,042,000	0.7684
Carrying Charges	58,353,617	3.2666	89,657,741	4.0425
Fuel Costs	81,586,462	4.5671**	95,731,641	4.3164**
TOTAL	151,756,881	8.4952	202,431,382	9.1273
Difference from Test Year	0	0	50,674,501	+0.6321
If 1972 Conditions are Related to Test Year Generation	151,756,881	8.4952	163,049,248	9.1273
Difference Between Test Year Adjusted to 1972 Conditions & Actual Test Year	0	0	11,292,367	0.6321
Less Test Yr. Annualization			-2,224,000	
			-9,068,367	
Adjusted to N. C. Retail (G) 65.49%			7,395,371	
Less Test Yr. Annualization			-1,456,498	
			5,948,873	
Less 1972 Savings on Cost of Purchased Power (N.C. Retail)			-5,600,345	
Increase of Expenses over Test Year			$ 338,528	

* Includes Hydro Generation
** Decreased from fuel costs shown above by effect of inclusion of Hydro Generation

11. In reference to CP&L's fuel procurement practices, we find the following:

(a) An offer was made by Humble Oil & Refining Company in March, 1970, to furnish residual oil to CP&L at a cost of approximately 33.5¢/MBTU. The offer was not accepted. After further negotiation, a contract was signed in early 1971 at an estimated 1972 cost of 65¢/MBTU, which is a substantial increase. Carolina Power & Light Company alleges that this escalation will not occur in the nuclear fuel market before 1975, and it is not at this time attempting to secure future nuclear fuel requirements under long-term contracts.

(b) Carolina Power & Light Company purchased coal in substantial quantities in the spot market to increase the Company stockpiles from an 81-day supply in September of 1970 to a 126-day supply in February of 1971. A major portion of this period occurred in the middle of the "coal crisis" when spot coal prices were the highest. The Company's witness, Mr. Utley, indicated that a 10-week (70 days) supply is desirable, which is substantially less than that acquired by CP&L during this period. Also in this period of time, CP&L continued to order high quality coal on a "non-guaranteed" basis despite evidence that it was not receiving the BTU content being specified.

(c) Carolina Power & Light Company does not fully employ competitive bidding practices nor require performance bonds in its procurement of coal.

12. That CP&L controls loads on its various generation units by a computer but does not include in the computer program the numerous internal combustion turbines used primarily for "peak shaving".

13. That CP&L's revenue under present rates on an annualized basis for customers served at the end of the test period for North Carolina retail service was $169,285,000. The operating revenues, as found, include $6,071,000 of growth factor to increase the actual revenues of $155,840,000 during the test period by the amount estimated for customers added during the test period to annualize the revenue from customers served at the end of the test period. The reasonable operating expenses of CP&L during the test period, using the cost of fuel of 47.9 cents per million BTU, was $99,421,000.

14. That trending the original cost of said plant in service at the end of the test period to current cost levels by the application of trended cost indexes, less depreciation, under G.S. 62-33(b)(1), gives trended cost of $743,692,621, and under the statute is found to be the replacement cost of the North Carolina retail plant in service based on the trended cost method.

15. That the Commission finds that the fair value of CP&L's retail property used and useful in providing the service rendered to the public within North Carolina, 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, and considering the replacement cost of said property by trending original cost to current cost levels by trended cost indexes, and considering the condition of the property and the outmoded design of some of the older plant which had been increased the most on a percentage basis by the trended cost indexes, and considering that a substantial amount of said plant was added during the twelve months of the test period (i.e., on a system-wide basis, with plant at the beginning of the test period July 1, 1971, of $736,679,816, plant additions during the twelve months of the test period were $175,481,460), the Commission finds that the fair value of said plant should be derived from giving two-thirds weighting to original cost and one-third weighting to trended cost or replacement cost, and the Commission finds that the fair value of said plant devoted to retail service in North Carolina is $618,795,000.

16. That the actual investment currently consumed by actual depreciation during the test period was $17,249,000.

17. That the net operating income for return at the end of the test period, as adjusted to fuel cost of 47.9 cents per million BTU was $29,239,000, and produced a rate of return on the original cost of plant in service, less depreciation, of 5.26%, and a rate of return on equity of 6.86%, and a rate of return on the fair value of CP&L's property in service of 4.73%, and such rate of return is found to be insufficient to provide a fair profit to CP&L's stockholders under G.S. 62-133(b)(4), considering changing economic conditions, and is insufficient to allow CP&L to compete in the market for capital funds on terms which are reasonable and fair to its customers and existing investors.

18. That the rate of return necessary on the fair value of CP&L property, with sound management, to produce a fair profit for its stockholders, considering the economic conditions as they exist, to maintain its facilities and services in accordance with the reasonable requirements of its customers in the territory covered by its franchise for the North Carolina retail service, and to compete in the market for capital funds on terms which are reasonable and which are fair to its customers and to existing investors is 6.39%, which rate of return will require rate increases to produce $22,441,000 of additional gross revenue from North Carolina retail service and will provide a return on equity to the common stockholders of 12% by providing net income for common stockholders of $24,068,000 on equity of $200,575,000, and requires an increase of 14.38% over the rates of all metered retail customers in effect prior to the interim rate increase allowed in this proceeding, and being 73.28% of the rate increase applied for in the Application,

and is an increase of 8.75% more than the interim increase of 5.63%, which is included in this final determination.

CONCLUSIONS

The Application of CP&L in this proceeding seeks an increase under the proposed rates to produce $30,624,718 of additional revenue from its customers on metered rates at the end of the test period on an annualized basis. Based upon the Findings of Fact above, the Commission finds and concludes that the total amount applied for is not supported by the record and would produce a return greater than that found to be just and reasonable. The following Tables, based upon the Findings of Fact, show the calculations for the $22,441,000 additional revenue found to be reasonable from the records in this proceeding:

I. CAROLINA POWER & LIGHT CO. - N. C. RETAIL OPERATIONS
NET OPERATING INCOME AND NET INCOME DERIVATIONS
FOR TEST PERIOD - 12 MONTHS ENDED JUNE 30, 1971
($000's)

Item	Present Rates	Increase Approved	At Approved Rates
Gross Operating Revenues	$169,285	$ 22,441	$191,726
Operating Expenses:			
Fuel for Generation	55,455		55,455
Purchased Power	8,414		8,414
Wages, Benefits & Materials	35,552		35,552
Total Operation & Maintenance Expense	$ 99,421		$ 99,421
Depreciation	17,249		17,249
Taxes other than Income	17,400	1,346	18,746
Income Taxes-State	926	1,266	2,192
Income Taxes-Federal	4,307	9,518	13,825
Investment Tax Credit (Net)	(353)		(353)
Income Taxes-Deferred Accelerated Dep.	1,096		1,096
Total Operations Expenses	$140,046	$ 12,130	$152,176
Net Operating Income for Return	$ 29,239	$ 10,311	$ 39,550
Rate of Return on Fair Value Rate Base	4.73%		6.39%
Net Other Income	$ 11,485		$ 11,485
Income available for fixed charges	40,724		51,035
Fixed Charges:			
Interest on long term debt	19,030		19,030
Interest on short term debt	2,009		2,009
Total Fixed Charges	21,039		21,039
Net Income Before Preferred Dividend	19,685		29,996
Preferred Dividends	5,928		5,928
Net Income for Common Stockholders	$ 13,757	10,311	$ 24,068
Common Stockholders Equity	$200,575		$200,575
Rate of Return on Common Stockholders Equity	6.86%		12.00%

II. CAROLINA POWER & LIGHT CO. - N. C. RETAIL OPERATIONS
REASONABLE CAPITAL STRUCTURE AND EMBEDDED COST
($000's)

Type Capital	Amount	Total %	Embedded Cost and Return %	Over-All Cost Rate %	Annual Interest And Return Requirement
Long Term Debt	$324,506	48.60	5.86	2.85	$19,030
Short Term Debt	$ 36,122	5.41	5.56	.30	$ 2,009
Preferred Stock	$ 86,953	13.02	6.82	.89	$ 5,928
Common Equity: Common Stock & Retained Earnings	$200,575	30.04	12.00	3.60	$24,068
Sub Total	$648,156				
Deferred Investment tax credit	$ 3,594	.54	0	0	0
Deferred Income taxes	$ 15,984	2.39	0	0	0
Total Capitalization	$667,734	100.00		7.64	$51,035

III. CAROLINA POWER & LIGHT CO. - N. C. RETAIL OPERATIONS
RATES OF RETURN
($000's)

	ORIGINAL COST		FAIR VALUE	
	Present Rates	Approved Rates	Present Rates	Approved Rates
Electric Plant in Service	$635,479	$635,479	$	$
Net Nuclear Fuel	14,646	14,646		
Less: Reserve for Depr.	123,199	123,199		
Contributions in aid of construction	$ 2,502	$ 2,502		
Net Investment in Plant	$524,424	$524,424		
Working Capital Allowance:				
45 Days Expense-Cash Allow.	14,440	14,440		
Materials & Supplies	$ 19,996	$ 19,996		
Less: Average Federal & State Income Tax Accruals	$ 2,514	$ 4,337		
Net Working Capital Allowance	$ 31,922	$ 30,099		
Total Electric Utility Property	$556,346	$554,523	$618,795	$618,795
Net Operating Income For Return	$ 29,239	$ 39,550	$ 29,239	$ 39,550
Rates of Return	5.26%	7.13%	4.73%	6.39%

1. The Commission concludes that 73.28% of the amount applied for in the proposed rate increase, as amended, is necessary to maintain CP&L's facilities and services in accordance with the reasonable requirements of its retail customers in North Carolina, and to provide a fair rate of return to CP&L on the fair value of its property used and useful in retail service in North Carolina.

2. The rates proposed by CP&L are found to be unreasonable and unjust to the extent that they produce any increase in annualized revenue on the North Carolina retail customers at the end of the test period in excess of $22,441,000.

3. CP&L has begun cost of service studies to measure the differentials in cost and other factors affecting the classification of rates by end-use of electricity between classifications of customers, but such studies require additional time to complete and are not available for consideration in this Docket and are reserved for future investigation and review after they are completed and filed with the Commission pursuant to the Order entered in Docket No. E-2, Sub 193, on October 2, 1970.

4. The Commission concludes from all of the evidence and all of the testimony and the entire record herein that the earnings of CP&L, based on 47.9 cents per million BTU cost of fuel as actually experienced in the twelve-month test period ending June 30, 1971, have been reduced by increases in the cost of coal and oil and by increases in interest expense and wage costs and other expenses to such an extent that the ability of CP&L to sell additional bonds and common and preferred stock sufficient to finance necessary construction of additional plant are placed in jeopardy under the present rates. The evidence reveals that the earnings per share for CP&L for the twelve months ending on June 30 on the years shown below are as follows:

1968	$1.98
1969	2.05
1970	1.56
1971	1.32

The above earnings per share during the test period ending June 30, 1971, of $1.32, were insufficient to pay the established dividend of $1.46 on common stock. As of June 30, 1971, 75% of the $13,757,000 earnings available for common stockholders (on a system basis) was derived from "other income" of $11,485,000, adjusted (mostly interest which is not money income that produces cash for dividends, but is an accounting entry to offset the cost of construction work in progress). The Commission concludes that CP&L could not continue adequate service in its service area and compete on a reasonable basis in the market for additional capital funds necessary to continue its necessary construction program without the rate increase approved herein.

5. The ability of CP&L to provide adequate service in its service area and to construct needed plant for necessary electric current requires the raising of additional outside capital through the sale of stocks and bonds, and the law requires that rates be fixed to give a fair return on the fair value of property sufficient to maintain its earnings at a level so as to attract the capital necessary for such programs. The increased cost of coal and the increased interest costs are amply shown in the record to be the primary causes of the decline in earnings shown in the evidence as set forth above.

6. The reasonable capital ratio of common stock, preferred stock and debt capital for the present economic conditions for CP&L is 48.6% long-term debt, 5.41% short-term debt and bank borrowings, 13.02% preferred stock, and 30.04% common stock, with a balance of 2.09% deferred income taxes and other interest free capital, including deferred investment tax credit.

7. The Commission, recognizing that much of the requested rate increase is based on increased costs of fuels used in the generation of electricity, has given considerable study to the evidence presented regarding (1) CP&L's fuel procurement practices, (2) test year and projected fuel mixes and costs, (3) effect of nuclear generation, and (4) the reasons given for the rapid increase in fuel prices during the test period.

In reference to the Company's procurement policies and the increased fuel prices it experienced during the test period, we conclude that the resultant total fuel cost is acceptable as being representative of "good faith" bargaining prices and as reflecting actual costs incurred during the test year by CP&L. However, we are concerned that CP&L's procurement practices may not have resulted in CP&L's obtaining fuel at the least cost available and, partly for that reason, we conclude that CP&L's prediction of coal prices of 49.68¢/MBTU for 1972 is excessively high particularly in view of the wage and price controls. We further conclude that CP&L should immediately initiate and implement a competitively structured fuel procurement program.

In reference to CP&L's greater generation of power by nuclear fuel during 1972, we conclude that the per KWH unit savings in fuel costs will be offset by the additional carrying costs per KWH of the nuclear facilities which are further increased by the 70% load factor limitation placed upon the facilities during 1972.

In view of our study and analysis of the above, we conclude that a correct fuel cost figure for use in pro-forming reasonably predictable costs into the test year data is 47.90¢/MBTU, said figure also being that fuel cost which CP&L actually experienced during the test year.

8. That it is in the public interest for CP&L to reduce its advertising and promotion expenses, and the Commission concludes that CP&L should effect further reductions in such expenses. The question of continued sales effort in the promotion of the sale of electric heating is reserved for other proceedings following the filing of cost of service studies by CP&L, to determine the advisability of such increase in electric heating to balance the system load of CP&L with summer air conditioning.

9. Changes in the interest charges coverage ratio have a direct influence on the rate of return to the common stockholders' equity due to the fact that the interest costs must be deducted from net operating income before the rate of return to the common equity capital can be computed. In the instant situation, the Commission concludes that it is necessary to provide additional revenues so that CP&L's coverage ratio will be adequate, and it results in a rate of return on common equity at the 12% level. A coverage ratio higher than 3.22 times would in itself require additional revenues that would produce a higher return on the common stockholders' equity. These interacting functions of the coverage ratio and the rate of return on common equity, two important earnings criteria recognized in the financial markets from which CP&L must seek funds, have been carefully considered by the Commission.

10. Based upon all of the expert opinions and testimony and the exhibits and the record regarding CP&L's interest coverage ratios, the Commission is of the opinion and finds, as will be hereinafter set forth, that under the existing monetary and economic conditions, CP&L's competitive ability to attract long-term debt capital will be protected under the approved increase in rates hereinafter set forth, which provide an interest charge coverage ratio of 3.22 times, before income taxes.

11. The testimony shows that the loads on the various generation units are controlled by the Company's computerized dispatch system for the purpose of facilitating the most economic pattern of system generation. New units are incorporated into the economic dispatch system as they come into service; however, the I.C. turbine units in the Company system are not controlled by the computerized economic dispatch system. The I. C. turbine units represent only a small percentage of system generation since they are mainly used for generation during peak demand periods but their omission in the computerized program raises the possibility that CP&L may not be fully utilizing existing technology in terms of economic dispatch and system loading.

The Commission concludes that further investigation in this area is warranted.

MODIFIED RATE INCREASE

CP&L is one of the fastest growing electric utilities in this country. It expects to double its total plant investment in the next six to seven years, which construction program will require approximately $3,000,000,000 in capital funds. In order for CP&L to attract these funds, its earnings must be maintained on a level substantially higher than it experienced during the test year, during which time its earnings fell sharply.

This serious decline in earnings was occasioned principally by higher interest expense and higher fuel cost. Rising fuel cost was the most critical factor affecting CP&L's earnings. Most of the increased cost of fuel was due to market conditions beyond CP&L's control, but substantial savings in fuel cost could have been achieved by more efficient and effective fuel procurement practices and techniques.

CP&L obviously must improve its earnings over that of the test year, and it obviously must exercise all management skill and initiative possible to hold operating expenses, particularly fuel cost, to the lowest possible level. The rates approved herein will enable CP&L to earn profits sufficient for it to attract its needed capital, and are no more nor no less than the Commission deems necessary, just and reasonable for such purposes.

The increased revenue needs found necessary in this proceeding are $22,441,000 annually, based on the test year operations. The rate increase required for application to CP&L tariffs to produce such increase in revenues is found to be a flat rate across-the-board increase of 14.38% on all of CP&L's metered rate schedules, which said increase includes the interim rate increase heretofore approved by the Commission by Order of June 30, 1971, and upon placing the 14.38% flat rate increase in effect on service rendered on and after March 1, 1972, as hereinafter provided, the interim rate increase approved on June 30, 1971, shall be terminated as being included in the final rate found to be just and reasonable herein, and the sole rate increase remaining in effect shall be the 14.38% increase on the metered rates which were in effect prior to the filing of the Application on May 3, 1971.

PRICE COMMISSION

The Utilities Commission takes judicial notice of the President's Executive Order No. 11627, entered on October 15, 1971, establishing Phase II of wage and price controls under the Economic Stabilization Act of 1970 beyond the original 90-day period ending November 13, 1971, and the establishment of the Price Commission pursuant to said Order, and the rules and regulations of the Price Commission published in Volume 36, No. 220, Federal Register, December 17, 1971, § 300.16, Regulated Utilities, at p. 21,793, as

amended in Volume 37, No. 9, Federal Register, January 14, 1972, at p. 652, requiring that regulated public utilities having gross receipts of $100,000,000 or more give notice to the Price Commission of any price increases authorized by regulatory agencies.

The Utilities Commission is further advertent to public statements of guidelines and policies of the Price Commission. The increase approved here is 8.75% more than the interim rates which were approved on June 30, 1971, and which were in effect during the base period prior to the price freeze on August 14, 1971. The Commission concludes that the North Carolina rate procedure and the evidence in this proceeding, and the consideration thereof by the Commission, fixes the rates of CP&L in this proceeding on the basis that they will provide no more than the minimum return necessary to assure continued and adequate service. The return actually earned by CP&L from the rates previously in effect produced a rate of return of 5.26% on net investment or 4.7% on the fair value of the plant in service, and if continued without the rate increase approved here, would not be adequate to assure continued and adequate service, and this Commission finds and so certifies that the increases are consistent with the criteria established by the Price Commission, and the documentation for such findings are set out fully in the Findings of Fact and Conclusions herein, based on evidence of record of the public hearings herein.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That effective with all service rendered on and after March 1, 1972, on all bills rendered on and after April 1, 1972, the applicant Carolina Power & Light Company is authorized and permitted to put into effect increased rates and charges to effect an across-the-board flat rate increase on all metered customers of the Company in the amount of 14.38% on all metered rates of the Company, including all components of each rate schedule, so that the total monthly bill to each metered customer will be increased by the same uniform 14.38% increase, such increase in rate schedules to produce no more than total annualized additional revenue as of the end of the test period of $22,441,000, being 73.28% of the increased revenue sought under the proposed rates of $30,624,718; and amended schedules of rates and charges will be filed with the Commission by March 1, 1972, reflecting such 14.38% increase. The interim rate increase put into effect under the June 30, 1971, Order averaging approximately 5.63% is included in the increase approved herein and is hereby terminated as being included in the final rate increase approved as being just and reasonable, effective with application of the 14.38% increase on service rendered after March 1, 1972.

2. The rates prescribed in this Order shall remain in effect for no longer than the time required to complete Carolina Power & Light Company's cost of service studies as

prescribed in Docket No. E-2, Sub 193, and until investigation and Order of the Commission determining the effect of said studies on the rate differentials between classifications of customers of CP&L, as a factor affecting the reasonableness of said differentials after notice and hearing on such cost of service studies.

3. That Carolina Power & Light Company shall immediately begin implementing a system of competitive procurement practices in all its fuel purchasing practices and shall require performance bonds or other assurance of delivery of the quantity and quality of the fuel so purchased in its fuel purchasing contracts.

4. That Carolina Power & Light Company shall further investigate the economic aspects of executing long-term contracts for its nuclear fuel requirements and report its findings to the Commission within 90 days from the date of this Order.

5. The Commission Staff is directed to enter into an investigation of dispatching and system loading of the Carolina Power & Light Company transmission and generation facilities, and report its findings to the Commission.

6. This Order is subject to the Order of the Price Commission published on February 11, 1972, in the Federal Register, Volume 37, No. 29, page 3094, setting public hearings on February 22, 24, 25 and 26, 1972, on the subject of the Price Commission's rules governing price increases by public utilities, and providing that all price increases by privately owned public utilities which were not legally in effect on February 9, 1972, are prohibited until the Price Commission implements the changed regulations, if any, or until March 10, 1972, whichever first occurs, subject to the provisions of any order of the Price Commission making any changes in the Price Commission's regulations issued as a result of such hearings, if issued before the termination of said prohibition on March 10, 1972, and to the extent applicable, if issued after the termination of said prohibition on March 10, 1972, and is subject to any review by the Price Commission as may be provided in said order of the Price Commission published on February 11, 1972.

ISSUED BY ORDER OF THE COMMISSION.

This 17th day of February, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-30, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Domestic Electric Service, Inc., for an Adjustment of its Rates and Charges	)	ORDER ALLOWING MODIFIED INCREASES IN RATES AND CHARGES

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on October 5, 1971

BEFORE: Commissioners John W. McDevitt, Presiding, Marvin R. Wooten, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

Thomas L. Young
Battle, Winslow, Scott & Wiley
Attorneys at Law
131 N. Church Street
Rocky Mount, North Carolina

For the Commission Staff:

Maurice W. Horne
Assistant Commission Attorney
Ruffin Building
Raleigh, North Carolina

No Protestants.

BY THE COMMISSION: On May 13, 1971, Domestic Electric Service, Inc., hereinafter referred to as "Applicant" or "Domestic", filed with the Commission an application seeking approval of increases in its electric rates and charges to its electric customers in Nash and Edgecombe Counties, North Carolina. The rate increase proposed would produce additional annual gross revenues of approximately $27,589.64 and of that amount $21,468.50 represents an increase in the wholesale rate of electric power purchased by the Applicant from the City of Rocky Mount effective May 28, 1971, and further resulted from increases in wholesale rates charged by Carolina Power & Light Company to Rocky Mount conditionally approved by the Federal Power Commission. The rate schedules proposed by the Applicant would produce a revenue increase of 10.8% on residential service; a 6.45% increase for commercial and industrial service; and an increase in the minimum charge on highly fluctuating or intermittent loads from $1.80 to $2.00.

On June 2, 1971, the Applicant filed an Undertaking with the Commission under G.S. 62-135 to place into effect the portion of the increase requested occasioned by changes in

the wholesale rate for electric power purchased by the Applicant for resale to its customers from the City of Rocky Mount.

The Commission, by Order of June 18, 1971, suspended the requested effective date for a period of 270 days, declared the matter to be a general rate case, and set the matter for investigation and hearing on October 5, 1971, requiring the Applicant to publish the notice of public hearing attached to said Order. The Commission's Order of June 18, 1971, further approved the Undertaking filed by the Applicant only to the extent of an 8.1% increase, representing the amount of the wholesale increase in purchased power, and disapproved the Undertaking as to any increase over that amount.

When this matter was called for hearing on October 5, 1971, the Applicant presented its evidence through the testimony of Messrs. Jay Powell, Secretary and Treasurer of the Applicant, and Clinton B. Galphin, a member of the firm of L. E. Wooten & Company, of Raleigh, North Carolina. Mr. Powell testified that the purpose of the application was (1) to recover increased costs of $21,468.50 in additional annual expense to the company occasioned by the increase in wholesale rates of electric power purchased from the City of Rocky Mount which was made effective on May 28, 1971, (2) to revise and modernize the Applicant's rate structure by eliminating the all-electric rate (which affects five customers only) and merge said rate with the residential rate, and (3) to improve the Applicant's rate of return to the extent of producing additional annual revenues in a total amount of $27,589.64, which said amount includes the cost of wholesale energy. Mr. Powell further testified with respect to the relationship between Carolina Electric Construction Company, hereinafter referred to as "Carolina Electric", a company personally owned by Thomas Powell, and Domestic Electric.

Mr. Galphin testified that the fair value of the properties of the Applicant was, in his opinion, $312,583.08. He stated that the figure represented the depreciated original cost of the properties and was arrived at through the use of indexes for property appraisal. He stated that the proposed rate structure would reduce inequities among classes of customers but further testified that no cost of service study for Domestic's customers had been performed.

The evidence of the Commission Staff was presented through the testimony and exhibits of Messrs. Michael C. Warren, Staff Accountant, and William J. Willis, Jr., of the Commission's Engineering Department.

The Commission Staff audit reflects that for the test period ended January 13, 1971, the Applicant realized gross operating revenues of $291,254.24 and experienced total operating expenses of $271,171.91. With consideration of an

annualization factor of 2.00% for customer growth during the test period, this resulted in net operating income for return for the test period per company books of $20,483.98. After allowance for working capital, the Applicant realized a rate of return on net investment in utility plant of $133,096.73 of 15.39%. Several specific accounting adjustments were made by Mr. Warren along with a number of specific recommendations. The Staff increased Applicant's utility plant in service in the amount of $262,962.96 in accordance with Commission's Order in Docket No. E-30, Sub 6, dated September 24, 1965, which said amount had not been recorded on the books of the company. As a consequence, the net investment per company books was substantially understated, which had the effect of overstating the rate of return thereon.

Another significant adjustment by the Commission Staff was a net decrease of $8,132.56 in operation and maintenance expenses, which included primarily the surcharges of 15.44% on gross salaries (for insurance and taxes) charged to Domestic from Carolina Electric and the 15% surcharge on gross salaries plus insurance and taxes charged to Domestic from Carolina Electric. At the hearing, Domestic took exception to this adjustment by the Staff.

After completion of the testimony of the Applicant and the Staff and the receipt into evidence of certain exhibits, the Commission concluded that this matter should be continued and the docket held open and directed that the Commission Staff make a full investigation and audit of the books and records of Carolina Electric. The Commission further directed that the Applicant and the Commission Staff be allowed fifteen (15) days from the date the written report of the Staff is filed for consideration, and that in the event both Domestic and the Commission Staff stipulated that the contents of the Staff's investigative report are accepted, and such stipulation made in writing filed within fifteen (15) days from the filing of the Staff's report, the matter would be determined without the necessity for further hearing.

The Special Examination of books and records of Carolina Electric by the Commission Staff was filed on November 12, 1971, along with a stipulation by Commission Counsel that the contents of the Staff investigative report were accepted, that the contents were correct and accurate and that the matter could be determined by the Commission without necessity of further hearing. On November 26, 1971, Thomas L. Young, Attorney for the Applicant, filed Conditional Offer to Join in Stipulation wherein the Applicant stipulated that the contents of the Staff's special investigation are correct and accurate, that the matter could be determined without the necessity of further hearings, conditional upon stipulation by the Commission Staff that the affidavit of Thomas Powell attached to the Conditional Offer as Exhibit No. 1 would be his testimony if further hearings were held. On November 29, 1971, the

Office of General Counsel stipulated that if further hearings were held and Thomas Powell were sworn as a witness, he would testify as set forth in his affidavit.

The Commission, by Order of November 29, 1971, accepted the stipulations of the Applicant and Commission Counsel and took the matter under advisement, indicating that the decision thereon would be made on the record adduced heretofore in this proceeding without necessity for any further hearing.

The Special Examination of the books and records of Carolina Electric by the Commission Staff filed on November 12, 1971, reflects that a major portion of Carolina Electric's expense has been charged to Domestic in the past, and therefore, not used in its own operation, and further reflects that a major portion of Carolina Electric's sales are nothing but charges to Domestic for labor rendered. Page 2 of the Staff's special investigation reflects that the ratepayers of the Applicant would have experienced savings in 1970 of approximately $9,397 had the employees reflected on Schedule 4 been recorded on Applicant's payroll, thereby eliminating application of the 15.44% "expenses of labor" surcharge and the 15% surcharge. The Staff renewed its original recommendation that the Applicant assume the employment and payroll functions of all those employees of Carolina Electric whose wages have been billed to Domestic.

The Commission Staff's special investigation further indicates, in part, as follows:

CAROLINA ELECTRIC CONSTRUCTION COMPANY
CLASSIFICATION OF TOTAL SALES BY SOURCE
FOR THE YEARS ENDED JANUARY 13, 1970, 1969, 1968, 1967, 1966, 1965

	1970		1969		1968	
Sales of Merchandise and electrical contracting work	$12,169.26(A)	15.7%	$14,411.37	19.8%	$20,708.27	28.9%
Sales of supplies to Domestic	309.02	0.4	214.59	0.3	201.15	0.3
Sales of gasoline to Domestic	2,063.29	2.7	2,138.64	2.9	2,081.88	2.9
Sales of labor to Domestic (B)	62,609.83	81.2	56,004.70	77.0	48,635.20	67.9
Total sales	$77,151.40	100.0%	$72,769.30	100.0%	$71,626.50	100.0%
Percentage of total sales derived from Domestic		84.3%		80.2%		71.1%

(A) Composed mostly of appliance sales.
(B) These amounts include the 15.44% surcharge and the 15.00% additional surcharge.

	1967		1966		1965	
Sales of Merchandise and electrical contracting work	$16,411.16	25.5%	$15,314.23	26.1%	$16,923.11	29.3%
Sales of supplies to Domestic	45.83	0.1	102.19	0.2	139.31	0.2
Sales of gasoline to Domestic	1,953.37	3.0	1,757.42	3.0	1,826.13	3.2
Sales of labor to Domestic (B)	45,829.72	71.4	41,448.05	70.7	38,930.64	67.3
Total sales	$64,240.08	100.0%	$58,621.89	100.0%	$57,819.19	100.0%
Percentage of total sales derived from Domestic		74.5%		73.9%		70.7%

(A) Composed mostly of appliance sales.
(B) These amounts include the 15.44% surcharge and the 15.00% additional surcharge.

CAROLINA ELECTRIC CONSTRUCTION COMPANY
PERCENTAGE OF LABOR EXPENSE (BEFORE SURCHARGES) BILLED TO DOMESTIC
FOR THE YEARS ENDED JANUARY 13, 1970, 1969, 1968, 1967, 1966, 1965

	1970	1969	1968	1967	1966	1965
Total labor & salaries expense	$52,564.37	$48,468.47	$45,117.72	$40,221.49	$37,593.35	$36,445.55
Labor billed to Domestic (before surcharges)	47,161.94	42,471.96	36,659.94	34,794.17	31,457.56	29,865.64
Percentages	89.7%	87.6%	81.3%	86.5%	83.7%	81.9%

CAROLINA ELECTRIC CONSTRUCTION COMPANY
SUMMARY OF INCOMES OF MAJOR PARTIES BY SOURCE
AND THE RELATIONSHIPS OF MAJOR PARTIES
(SALARIES OF A FEW PART-TIME EMPLOYEES ARE OMITTED)

Employee	Title	Relationship	1970 Carolina Payroll	1970 Domestic Payroll	Total
D. M. Blackwell	Lineman		$7,511.40		$7,511.40
J. E. Savage	Lineman		9,180.60		9,180.60
B. L. Bishop	Line helpers		9,043.84		9,043.84
T. F. Adcox	Line helpers		7,374.64		7,374.64
J. M. Jenkins	Meter reader		6,398.60		6,398.60
B. D. Williams	Meter reader		5,842.20		5,842.20
Joyce Jenkins	Domestic V. Pres.	Daughter-Thomas	3,900.00		3,900.00
J. Bennet Jenkins	Domestic Manager	Husband-Wife	4,160.00	$12,000.00	16,160.00
Jay Powell	Domestic Sec.-Treas.	Brothers	3,120.00	9,000.00	12,120.00
Thomas Powell	Domestic Pres.			12,000.00	29,000.00

Based upon the entire record of this proceeding, the Commission makes the following:

FINDINGS OF FACT

(1) That Domestic Electric Service, Inc., is a duly franchised public utility authorized to provide electric service in its assigned service area by territorial assignment certificates from this Commission in the State of North Carolina under Chapter 62 of the General Statutes of North Carolina.

(2) That for the 12-month period ending January 13, 1971, after accounting and pro forma adjustments, Applicant's gross operating revenues amounted to $290,924, operating expenses totaled $271,833, producing a net operating income for return of $19,162 and for that period the net original cost of Applicant's utility property in service was not less than $286,351.

(3) That the rates proposed by the Applicant amounting to additional annual revenues of approximately $27,590 would, after consideration of Commission Staff's accounting adjustments herein adopted by the Commission, result in a rate of return on net investment in utility plant of 7.87% and a rate of return on common equity of 14.61% which the Commission finds to be unjust and unreasonable.

(4) That Applicant experienced increases in the wholesale rate of electric power in the amount of $21,468.50 effective May 28, 1971, from the City of Rocky Mount.

(5) That if the Applicant had experienced for the entire 12-month period ending January 13, 1971, increases in wholesale cost of electric power in the amount of $21,468.50, and if such rates had been allowed during that period, which would have permitted the Applicant to recover the increased cost of purchased power plus the 6% gross receipts tax (total additional annual revenues of approximately $22,863.15), the Applicant would have realized a rate of return on net investment in utility plant of 6.69% and a rate of return on common equity of 12.45% based upon the adjustments by the Commission Staff herein adopted by the Commission.

(6) That the rate of return resulting from approval of $22,863.15, being the increase in wholesale energy cost experienced by the Applicant plus the 6% gross receipts tax results in a return on Applicant's investment in property devoted to use of its customers which is not unjust or unreasonable to either the Applicant or its ratepayers.

(7) That the Applicant should be authorized to increase its rates and charges by approximately 8.1% on all classes of customers so as to produce not more than $22,863 in additional annual revenues which will not more than offset

the increase in wholesale energy cost plus the gross receipts tax.

(8) That the Commission herein adopts all of the accounting and pro forma adjustments of the Commission Staff summarized in Schedule 1 of the Staff's audit and particularly, at Column 2.

(9) That the fair value of the Applicant's properties used and useful in rendering electric service is $312,583, and the rate of return on the Fair Value Rate Base is 6.13%.

(10) The following recapitulation indicates the calculations for the increases authorized herein:

SCHEDULE OF RATE OF RETURN AFTER ACCOUNTING
AND PRO FORMA ADJUSTMENTS, AND PROPOSED
RATE CHANGE ADJUSTMENTS TO COVER INCREASE IN PURCHASED POWER
FOR THE YEAR ENDED JANUARY 13, 1971

	After Accounting and Pro Forma Adjustments	Proposed Increase in Purchased Power	After Proposed Rate Change Adjustments
Operating Income For Return			
Operating Revenues			
Gross operating revenues	$290,924.24	$22,863.15	$313,787.39
Less: Bad debts	(304.79)	(22.86)	(327.65)
Net operating revenues	290,619.45	22,840.29	313,459.74
Operating Revenue Deductions			
Operation and maintenance expense	103,972.14		103,972.14
Purchased power	116,455.50	21,468.50	137,924.00
Depreciation	24,245.63		24,245.63
Taxes - other	20,098.21	1,371.79	21,470.00
Taxes - state income	1,550.88		1,550.88
Taxes - Federal income	5,654.23		5,654.23
Investment tax credit (amortization)	(143.89)		(143.89)
Total operating revenue deductions	271,832.70	22,840.29	294,672.99
Operating income	18,786.75		18,786.75
Add: Annualization factor of 2.00%	375.74		375.74
Operating income for return	$ 19,162.49		$ 19,162.49

	After Accounting and Pro Forma Adjustments	Proposed Increase in Purchased Power	After Proposed Rate Change Adjustments
Net Investment in Utility Plant for Return			
Electric utility plant in service	$528,796.10		$528,796.10
Less: Accumulated reserve for depreciation	251,839.45		251,839.45
Net electric utility plant in service	276,956.65		276,956.65
Add: Allowance for working capital			
Cash (1/8 operation and maintenance expenses above)	12,996.52		12,996.52
Less: Average Federal income tax accrual	2,827.11		2,827.11
Average state income tax accrual	775.43		775.43
Total allowance for working capital	9,393.98		9,393.98
Net investment in utility plant for return	$286,350.63		$286,350.63
Rate of return on net investment in utility plant	6.69%		6.69%
Rate of return on fair value	6.13%		6.13%
Rate of return on common equity	12.45%		12.45%

(11) That Applicant's utility plant in service should be increased $262,963 as ordered by the Commission in Docket No. E-30, Sub 6, dated September 24, 1965, which said amount has not heretofore been recorded on the books of account of the Applicant.

(12) That Applicant's operation and maintenance expenses should be decreased for the purpose of computing returns on the test period in a net amount of $8,132.56, which includes the elimination of the 15.44% surcharge for insurance and taxes and 15% surcharge on gross salaries.

(13) That Carolina Electric Construction Company is a sole proprietorship engaged in the sale of small appliances and lighting fixtures and in the business of providing electrical contracting services and is owned entirely by Thomas Powell, who is President of Domestic and who owns approximately 60% of the outstanding stock of Domestic.

(14) That the relationship between Carolina Electric and Domestic has in the past resulted in increased expenses to Domestic and thereby has affected the ratepayers of Domestic. The total savings which would have inured to the ratepayers of Domestic for the year 1970 would have been $9,397.32. The Commission finds that the practice by Carolina Electric of imposing surcharges hereinabove described has affected the rates of Domestic to such extent that the Commission herewith finds such practice to be unjust and unreasonable. In adopting the Commission Staff's adjustments, the Commission has herein adjusted the Applicant's operation and maintenance expenses to make the test period utilized in this proceeding more representative for the purpose of setting rates herein for the immediate future. A major portion of Carolina Electric's expense has been charged in recent past to Domestic and, therefore, not used in its own operation, and, further, a major portion of Carolina Electric's sales has in the recent past been nothing more than charges to Domestic for labor rendered by the employees on Carolina Electric's payroll.

(15) That Applicant should be required to implement and henceforth follow the accounting practices for reporting and ratemaking purposes hereinbelow noted:

(a) Applicant should utilize the straight line depreciation method to depreciate its plant,

(b) Applicant should set up expense accounts for charging various income and other taxes,

(c) Applicant should capitalize all expenses which are applicable to construction activity in the transportation expense and administrative general salary accounts,

(d) Applicant should establish a bad debts expense account and begin charging bad debts expense to that account,

(e) Applicant should remove from accounts receivable all balances which it deems are uncollectible,

(f) Applicant should establish and maintain a monthly customer account by billing category,

(g) Applicant's plant records and the method of capitalization of transportation equipment should be maintained in conformity with the Uniform System of Accounts for Class C Electric Utilities, and

(h) Applicant should establish the proper account balance for the investment tax credit and proper yearly amortization should be taken.

Based upon the foregoing Findings of Fact, the Commission makes the following:

CONCLUSIONS

The Commission concludes that the Applicant should be authorized to recover the increased cost of wholesale power resulting from its purchases from the City of Rocky Mount, and the 6% gross receipts tax applicable thereto, resulting in additional annual gross operating revenues of approximately $22,863. The Commission further concludes that to allow the application as proposed would result in additional annual gross revenues of approximately $27,590. Such additional increases, if approved, would have resulted in a return on net investment of 7.87% and a return on common equity of 14.61%. The Commission deems such returns to be in excess of what can be deemed to be just and reasonable.

To require the Applicant to absorb the increase in wholesale energy cost imposed upon it by the City of Rocky Mount would result in requiring the Applicant to operate at a rate of return which would be less than just and reasonable under its operations as a public utility. The Commission is of the opinion that the rates authorized pursuant to this Order are just and reasonable under the operating conditions which the Applicant is now experiencing and that increases allowed herein will permit the Applicant to maintain its facilities and service in accordance with the reasonable requirements of its customers in its franchise service area.

The Commission further concludes that Domestic should assume the employment and payroll functions for all those employees of Carolina Electric Construction Company whose wages have been billed to Domestic. The Commission observes that the affidavit of Thomas Powell filed on November 26, 1971, indicates that Domestic has, subsequent to the

hearing, determined that its "apprehensions concerning additional expense and trouble if we followed Mr. Warren's suggestion were unfounded" and that Domestic transferred to its payroll all employees used primarily by Domestic effective January 13, 1972, being the end of the Applicant's fiscal year. The imposition of labor and insurance expense surcharges to gross salaries by Carolina Electric has resulted in greater expense to Domestic which ultimately must be borne by its ratepayers. This practice should be immediately abandoned by the Applicant if not already accomplished.

The Applicant should be required to file revised tariffs with the Commission before the increases herein approved may be made effective.

Such revised tariffs should be structured by the Applicant to produce total additional annual revenues of not more than $22,863, thereby allowing Applicant recovery of the increased cost of wholesale energy plus the 6% gross receipt tax. Additionally, such revised tariffs should be structured by the Applicant to apply increases approved herein in a manner so as to produce an approximate 8.1% increase equally on all classes of customers and such revised tariffs should further include the minimum charge increase for Highly Fluctuating or Intermittent Loads from $1.80 to $2.00.

The Applicant has failed to present sufficient evidence to justify changing its existing rate structure. Such requested change was based almost exclusively on the testimony of Mr. Galphin, who indicated that the new rate structure was designed to reduce inequities among classes of customers and to place into the rates for each group the proportionate share of the operating expenses of Domestic. However, Mr. Galphin testified that he has made no cost of service studies to determine the returns actually earned by Domestic on its various classification of customers. Mr. Galphin's opinion was based upon comparison of Domestic's rate structure with several municipalities and electric membership cooperatives. Inasmuch as the wholesale rate paid by Domestic to Rocky Mount constitutes the major expense in the generation of electricity to all its customers, the Commission concludes that the Applicant should maintain its existing rate structure and implement the increases authorized herein equally and proportionately on all classifications of customers to produce approximately 8.1% in increases on each classification.

It is the opinion of the Commission that the Applicant has not presented sufficient evidence to authorize Applicant to increase its all-electric rate approximately 21.5% over the existing rate. The Commission further concludes that the Applicant should be required to maintain its all-electric rate as a separate tariff and that such classification of customers (Applicant has five such customers) should not be

merged with the general residential service classification as proposed by the Applicant.

The Commission further concludes that the recommendations with respect to accounting practices by the Commission Staff and hereinabove set forth in the Commission's findings should be immediately implemented and followed for reporting and ratemaking purposes by the Applicant. Accordingly,

IT IS, THEREFORE, ORDERED as follows:

(1) That Domestic Electric Service, Inc., is herewith authorized to increase its rates and charges only to the extent of producing additional annual revenues of approximately $22,863, and in such a manner as to recover only the increase in wholesale energy cost to Domestic plus the gross receipts tax and further producing increases of approximately 8.1% on each classification of its customers. This approval is contingent and conditional upon the increases heretofore imposed by the City of Rocky Mount remaining in effect and subject to the further conditions hereinbelow set forth.

(2) That the rates approved herein should not be made effective until after the Applicant has filed revised tariffs with the Commission structured by the Applicant in accordance with this Order. After the filing of revised tariffs and upon one day's notice to its customers, the Applicant may implement and make effective the rates approved by this Order.

(3) That inasmuch as the rates herein approved relate only to the wholesale cost of purchased power and, further, that the Undertaking approved by Commission's Order of June 18, 1971, approved increases only with respect to wholesale energy cost, the conditions of that Undertaking are satisfied and no refunds are required.

(4) That Domestic is herewith required to assume the employment and payroll functions for all those employees of Carolina Electric Construction Company whose wages have been billed to Domestic and the Applicant is immediately required herewith to abandon the practice of imposing surcharges for labor and insurance expense with respect to any employees of Carolina Electric who perform services for Domestic.

(5) That Applicant is herewith required to establish and maintain the following accounting practices for reporting and ratemaking purposes:

(a) Applicant shall use straight line depreciation to depreciate its plant,

(b) Applicant shall set up expense accounts for charging various income and other taxes,

(c) Applicant shall capitalize all expenses which are applicable to construction activity in the transportation expense and administrative and general salary accounts,

(d) Applicant shall establish a bad debts expense account and begin charging bad debts expense to that account,

(e) Applicant shall remove from accounts receivable all balances which it deems are uncollectible,

(f) Applicant shall establish and maintain a monthly customer account by billing category,

(g) Applicant's plant records and the method of capitalization of transportation equipment shall be maintained in conformity with the Uniform System of Accounts for Class C Electric Utilities, and

(h) Applicant shall establish the proper account balance for the investment tax credit and proper yearly amortization shall be taken.

(6) That in the event the City of Rocky Mount reduces its rates to Domestic as a result of the disallowance by the Federal Power Commission in FPC Docket No. E-7564, being the increases conditionally approved to Carolina Power & Light Company for municipalities, Domestic shall immediately thereafter file revised tariffs and refund any and all amounts collected from its customers and file a written report thereof with the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This 28th day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-30, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Domestic Electric) ORDER
Service, Inc., for an Adjustment) INSTITUTING REDUCTION
of its Rates and Charges) IN RATES

BY THE COMMISSION: In accordance with this Commission's Order of January 28, 1972, in this Docket, Domestic Electric Service, Inc., has filed an Application for Adjustment of its Rates and Charges to reflect reduced rates for its supply of electricity arising from the final Order in FPC Docket No. E-7564.

The Commission is informed that the reduced Rates and Charges, as shown by Domestic in its revised Residential, All Electric, and Commercial and Industrial Schedules (Exhibits B, C and D of its filing) truly reflect the impact of the reduction in rates.

IT IS, THEREFORE, ORDERED that the Rates and Charges for Residential, All Electric, and Commercial and Industrial services as attached hereto as Appendix A, B and C, respectively, are approved, and shall be applied to the bills rendered on and after November 13, 1972.

BY ORDER OF THE COMMISSION.

This the 12th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-30, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Domestic Electric	)	ORDER INSTITUTING
Service, Inc., for an Adjustment	)	REFUND DUE TO
of its Rates and Charges	)	REDUCTION IN RATES

BY THE COMMISSION: In accordance with this Commission's Order of January 28, 1972, in this Docket, Domestic Electric Service, Inc., filed an Application for Adjustment of its Rates and Charges to reflect reduced rates for its supply of electricity arising from the final Order in FPC Docket No. E-7564.

The Commission was informed that the reduced Rates and Charges, as shown by Domestic in its revised Residential, All Electric, and Commercial and Industrial Schedules (Exhibits B, C and D of its filing) truly reflect the impact of the reduction in rates and, therefore, the Commission, in its Order of December 12, 1972, ordered that the Rates and Charges for Residential, All Electric, and Commercial and Industrial services as attached thereto as Appendix A, B and C, respectively, to be applied to the bills rendered on and after November 13, 1972.

By separate letter the Commission advised Domestic to refrain from refunding amounts collected from August 21, 1972 to November 12, 1972, in excess of the now finalized rates upon which Domestic is supplied electricity until such time as the matter of any refund due Domestic for other months might be satisfactorily concluded.

Subsequently, Domestic and the City of Rocky Mount furnished information to the Commission concerning the use

of the funds which had been withheld from a refund for prior months' billings by Carolina Power & Light Company to the City of Rocky Mount. That refund would approximate $20,899, which sum is to be used in the construction of a new substation to serve Domestic and other customers of the City with more reliable electric service and more regulated voltage. The Commission is also informed that other relief was made to Domestic in the form of supression of a 95% demand ratchet from the rate during a portion of this time period.

The Commission concludes that Domestic should not be required to refund amounts not refunded to it by the City, and that such funds appear to be contemplated for use in a manner conducive to the improvement of the quality and reliability of the service to be offered by Domestic.

IT IS, THEREFORE, ORDERED that Domestic refund to its customers amounts collected for service from August 21, 1972, to November 12, 1972, in excess of its present rates which apply retroactively to service rendered on and after August 21, 1972.

BY ORDER OF THE COMMISSION.

This the 21st day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-7, SUB 128

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Duke Power Company for Authority to Increase its Electric Rates and Charges by an 11.75% Across-the-Board Increase, and for Authority to Place Said Increase into Effect Immediately Under an Undertaking for Refund.) ORDER

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on October 12, 13, 14, 15, 19, 20, and 21, 1971.

BEFORE: Commissioner John W. McDevitt, Presiding; Chairman Harry T. Westcott, Commissioners Marvin R. Wooten, Miles H. Rhyne and Hugh A. Wells.

APPEARANCES:

For the Applicant:

W. H. Grigg, Esquire
General Counsel
Duke Power Company
P. O. Box 2178
Charlotte, North Carolina 28201

Steve C. Griffith, Jr., Esquire
Attorney at Law
Duke Power Company
P. O. Box 2178
Charlotte, North Carolina 28201

Clarence W. Walker, Esquire
Kennedy, Covington, Lobdell & Walker
Attorneys at Law
North Carolina National Bank Building
Charlotte, North Carolina 28202

For the Intervenors:

Claude V. Jones, Esquire
City Attorney
City of Durham
Durham, North Carolina

Lon Bouknight, Esquire
Tally, Tally and Bouknight
P. O. Box 1660
Fayetteville, North Carolina 28302
Appearing for: Electricities of North Carolina

Houston V. Blair
3403 Ogburn Court
Durham, North Carolina 27705

For the Public:

Jean A. Benoy, Esquire
Deputy Attorney General
North Carolina Department of Justice
Room 124, Ruffin Building
Raleigh, North Carolina 27602
Appearing for: The Using and Consuming Public

For the Commission Staff:

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

BY THE COMMISSION: This proceeding was instituted on April 28, 1971, with the filing by Duke Power Company

(hereinafter called "DUKE") of an Application for authority to increase its electric rates and charges for its retail customers in North Carolina by an across-the-board increase of 7.10%. The Application included a petition to place said rates into effect immediately on an interim basis under an Undertaking for refund pending final determination by the Commission on the Application for rate increase.

The increases applied for are based on allegations of general revenue needs, to be distributed to all classes of customers upon a flat-rate increase in all schedules. The Application and the exhibits attached thereto contend that the rate increase is needed and required due to increases in the cost of coal used in Duke's coal-fired electric steam generating stations, and to the increase in imbedded interest costs arising from Duke's large construction program necessary to meet the demands for electric service in its franchised territory in North Carolina, and to meet other increases in expenses of operations since the cost computed in the last increase in Duke's rates authorized on February 12, 1971, based upon a test period of operations ending December 31, 1969. N.C.U.C. Docket No. E-7, Sub 120. The Application seeks to produce proformed additional annual gross revenues of $18,242,000 on North Carolina retail operations.

By Order of May 7, 1971, the Commission suspended the rate increase applied for and set the petition to place the rates into effect as interim rates under Undertaking for hearing on Affidavits on June 15, 1971, and declared the Application to be a general rate case and set hearing on the general rate case for October 12, 1971.

Petitions to Intervene were filed in protest to the rate increase and Orders duly entered allowing interventions of the City of Durham, ElectriCities of North Carolina, and Houston V. Blair, a customer residing in Durham County, North Carolina, and recognizing the intervention of the Attorney General on behalf of the using and consuming public.

The request for emergency increase under an Undertaking for refund was heard before the Commission on June 15, 1971, on oral arguments and affidavits, the Applicant and all other parties being present. By Majority Order entered June 30, 1971, the Commission allowed the interim across-the-board increase of 7.10%, computed by Duke to produce $18,242,000 on an annual basis for the test year ending December 31, 1970. The Attorney General and other protestants filed a Petition for Writ of Certiorari in the Court of Appeals to review the June 30, 1971, Order allowing said interim rate increase, and filed Motion to Stay said Order in the Commission. On August 11, 1971, the Court of Appeals denied the Petition for Certiorari, and the Motion to Stay filed with the Commission was withdrawn by the Attorney General.

On June 21, 1971, the Commission entered an Order changing the test period in the proceeding from the twelve-month period ending December 31, 1970, to the twelve-month period ending June 30, 1971, amended to May 31, 1971. Exceptions to the Order amending the new test period were entered by the protestant Houston V. Blair. By Order of July 12, 1971, the Objections were overruled and Exceptions noted, for the reasons duly set forth in the Commission's Order.

Protests to the rate increase were filed by Mrs. J. M. Waller, Aaloha Apartments, Inc., and Thomas H. Sykes, and Orders entered duly noting said protests for the record.

On August 11, 1971, Duke filed an Amendment to the Application, substituting new rate schedules for those filed with the original Application, to increase the rates to a proposed across-the-board increase of 11.75% in Duke's retail electric rates in North Carolina in substitution for the original increase applied for of 7.10%. The amended Application seeks to produce proformed additional annual gross revenues of $30,884,000 on North Carolina retail operations.

Testimony and exhibits of Duke and the testimony and Staff reports were duly filed in advance of the public hearing.

Public hearing was held in the Commission Hearing Room, Raleigh, North Carolina, beginning October 12, 1971, and extending through seven hearing days, ending on October 21, 1971, with counsel for all parties appearing and participating as shown above.

Duke offered testimony and exhibits of witnesses as follows: Carl Horn, Jr., President of Duke; Douglas W. Booth, Senior Vice President - Retail Operations for Duke; Robert E. Frazier, Treasurer of Duke; D. M. Jenkins, Manager of Load Research for Duke; William T. Robertson, Jr., Manager of Purchases - Fuel for Mill Power Supply Company, a wholly-owned subsidiary of Duke, and Purchasing Agent for fuel for Duke; Dr. J. Richard Lucas, Professor of Mining Engineering of Virginia Polytechnic Institute and State University; W. Truslow Hyde, Economic Consultant on rate of return, New York, New York; and rebuttal witness Austin C. Thies, Senior Vice President of Production and Transmission of Duke.

The Commission Staff offered the testimony of Norman Peele, Commission Staff Accountant, testifying as to the Commission Staff audit of Duke's books and the audit report and exhibits contained therein; Robert K. Koger, Chief Engineer of the Commission Staff, testifying as an expert on allocation of plant expenses and revenue between North Carolina wholesale and North Carolina retail customers; Paul Fahey, Commission Staff Coal Purchasing Consultant, Nashville, Tennessee, testifying as to investigation of Duke's coal purchasing practices; David A. Kosh, Commission Staff Economic Consultant, Washington, D. C., testifying as

to the rate of return of Duke; and Andrew W. Williams, Nuclear Engineer on the Staff of the Commission, testifying as to the expected fuel cost of Duke's nuclear fuel generating stations expected to be in operation beginning on March 1, 1972.

The Town of Elkin presented a statement through the Chief Clerk, Joe C. Layell, protesting the rate increase.

The protestant, Thomas H. Sykes, made a statement regarding the practices of Duke in repairing electric appliances in competition with the repair service operated by Thomas H. Sykes.

Duke and the Commission Staff offered extensive testimony and exhibits and opinions of expert witnesses relating to the operations of Duke, the rate of return, the coal purchasing practices of Duke, the construction program of Duke and the interest charges incurred as expenses of Duke.

The parties requested and were granted leave to file briefs 30 days after the mailing of transcripts. The final volume of transcripts were mailed on October 28, 1971, and all briefs were filed and received by the Commission on or before November 29, 1971.

DIGEST OF TESTIMONY

The rate schedules of Duke in effect upon the filing of this Application were established in Docket No. E-7, Sub 120, by Order of February 12, 1971.

Based on the test year in this Docket, both Duke and the Commission's Staff made separations of Duke's operations between the North Carolina and South Carolina jurisdictions and separations between Duke's sales for resale ("wholesale" operations) in North Carolina and its other customers ("retail" operations) in North Carolina. While Duke's and the Staff's methods are not identical, the results of the two methods do not differ in material respects.

Such items as revenues, plant specifically located and serving only customers in one state or serving only "wholesale" customers, and/or expenses associated with providing service in one state or to wholesale customers can be specifically assigned to a jurisdiction for the purpose of eliminating all revenues, plant and expenses not properly includable in the North Carolina retail operations of Duke over which this Commission has jurisdiction. However, because of Duke's necessarily large investment in transmission and production plant capacity which jointly serves its entire system by means of a network of high voltage transmission lines, a majority of its plant investment and associated production and related plant expense must be apportioned on the basis of various allocation factors. Both the Staff and Duke proceeded by first classifying the primary plant and expense accounts to

Demand, Energy, and Customer related categories. In developing allocation factors for these three categories, the Staff and Duke differed regarding the most appropriate method for arriving at demand related allocation factors. The size of the required production and transmission plant being dictated to a very large degree by the demand upon the system, the demand related factor is most significant in arriving at the amount of joint plant to be assigned to each jurisdiction.

The Staff followed the "Coincident Peak Responsibility" procedure while Duke used the "Maximum Non-coincident" method for developing demand related allocation factors. The Staff, using its allocation methods together with various standard accounting adjustments, arrived at an original cost investment in gross plant devoted to North Carolina retail operations of $1,094,666,000. Duke arrived at a substantially similar figure of $1,093,469,000.

Duke's total operations in North Carolina and South Carolina (both wholesale and retail) for the test period ended May 31, 1971, before adjustments, show gross operating revenues of $415,349,741, operating expenses of $343,685,573, with net operating income of $71,664,168. Total gross system investment in electric plant in service (North Carolina and South Carolina) was $1,723,072,528. After deducting accumulated depreciation and contributions in aid of construction and other standard adjustments, net investment in system electric plant was $1,198,967,273. The Commission Staff audit report indicates a total company system-wide rate of return of 5.49% on net investment (including working capital as adjusted by the Staff). Staff Peele Exhibit No. 1, Schedule 1, Col. 1.

The North Carolina retail operations of Duke, which are the only services involved in this Docket, computed by separation of South Carolina business and wholesale business in North Carolina, produces the following operating data on Duke's North Carolina retail operations during the test period, at the rates then in effect: Operating expenses of $222,564,000; Net operating income $53,918,000; Original cost of gross plant in service allocated to North Carolina retail service $1,094,666,000; Reserve for depreciation of $321,644,000; Contributions to construction of $4,805,000; Allowance for working capital of $61,770,000; Net plant $829,988,000; Return of 6.50% on net investment in utility plant in service. (See Table herein, rates of return, post).

The rate increases sought in the Application, would apparently produce additional revenue on North Carolina retail business of $30,884,000 for the test period. The addition of this revenue under the proposed rates would result in a net operating income of $68,108,000, for a rate of return of 8.24% on adjusted net investment in plant in service of $826,788,000 at the end of the test period.

The above operating statistics include many adjustments recognized in utility rate-making as hereinafter discussed and as further revealed in the testimony of the various expert witnesses and the exhibits offered into evidence at the public hearing. The figures used are principally the result of the Commission Staff audit. There is no substantial disagreement between any of the parties as to the actual revenues of Duke, the actual system expenses of Duke, or the actual system investment in plant of Duke during the test period, and only minor differences as to the allocated expenses and plant investment in North Carolina retail service. These basic figures are not controverted by any evidence of record. The Commission Staff conducted an audit of the Company's books and confirmed the actual figures, as described.

The various differences in the conclusions of the expert witnesses of Duke and the Commission Staff result entirely from differences in allocation; accounting and economic adjustments to the actual figures, pursuant to differences in opinion as to standard allocation methods, utility rate-making practices, and recognized utility accounting practices, to arrive at North Carolina retail service. The record presents differences of opinion as to the proformed operating statistics of Duke after such adjustments and the actual accounting data designed to establish a standard test year of operations for rate-making purposes. Adjustments, projected by the witnesses, include adjustments to bring forward known increases in revenues and expenses subsequent to the test period for "probable future revenues and expenses" under G.S. 62-133(c); contracted wage increases; and accounting adjustments for deferred taxes, amortization of taxes, rent on combustion turbines, marketing advertising expense, contributions to construction, deferred tax credit, cash working capital, materials and supplies, and Federal and State tax accruals.

All of the various adjustments by the various expert witnesses are amply set forth in the testimony and exhibits of the witnesses as shown in the record herein, and all have been thoroughly considered by the Commission in arriving at its Findings of Fact and Conclusions of Law therefrom, as hereinafter set forth.

FAIR VALUE EVIDENCE

G.S. 62-133 provides that the Commission shall ascertain the fair value of the plant in service at the end of the test period, considering original cost, replacement cost (which may be based upon trended cost), and any other factors relevant to the present fair value of the property, and following the determination of fair value, fix a rate of return on the fair value of the property as will enable the utility by sound management to produce a fair profit (to Duke's stockholders), "considering changing economic conditions and other factors as they then exist, to maintain its facilities and service 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 existing investors". G.S. 62-133.

The first factor prescribed by the statute in determining fair value, the original cost (less depreciation) of Duke's investment in plant is not disputed. There is no substantial dispute as to the retail allocations of that portion of the plant devoted to North Carolina retail service. The original cost gross plant in service, as computed by the Staff to be $1,094,666,000, is not disputed by the intervenors, and is substantially in harmony with the allocations made by Duke to North Carolina gross retail plant of $1,093,469,000. The depreciation allowance was audited by the Commission Staff, and the depreciation rates used do not require adjustments. Depreciation allocated to North Carolina retail business amounted to $321,644,000, and after standard adjustments for the test period, resulted in net original cost of plant of $829,988,000.

Duke offered expert testimony and exhibits as to the fair value of the plant. Taking the fair value plant determined reasonable by the Commission in Docket No. E-7, Sub 120, the Company has added plant put in service through May 31, 1971, at original cost. By this method Duke determined the fair value of the plant to be $911,967,000.

ELECTRIC HEATING

Mr. Douglas Booth, Duke Vice President for retail operations, testified in regard to promotion of all-electric homes that the Company had reduced its advertising expenses as well as overall sales expenses. In 1965, its total sales expense was 1.19% of revenue, 1.12% in 1969, and 1.02% in 1970. Mr. Booth testified that Duke was either lowest or next to the lowest in the entire Southeast in terms of sales expenses as a percentage of revenues. The advertising expense for the test year ended May 31, 1972, was $492,224 or 58.38% lower than the 1969 test year in Docket No. E-7, Sub 120.

Duke maintained that "the only significant promotional activity which we are currently carrying on, even to a limited degree, is designed to maintain the almost perfect winter and summer load balance..." Mr. Booth testified that plant utilization is the key in any business where large investments are involved and introduced various figures showing the balance of summer and winter peaks in past years.

Mr. Booth emphasized that, without the electric heating load which had been connected since Duke started its electric heat promotion in 1957, the economic burden on the Company and its ratepayers would have been substantial. Duke predicts that, even with successful promotion of

electric heating, the summer peak will predominate in the years after 1975.

Mr. Booth introduced the results of a Duke survey which showed that 35.8% of all non-electrically heated homes had air conditioning, while 37.6% of electrically heated homes had air conditioning, a difference of only 1.8%. He indicated that the saturation of air conditioning then in both types of homes was practically the same.

Duke has in its RA rates a requirement that heat loss not exceed eleven watts per square foot. Duke contends that insulation in the amounts required to achieve the heat losses set forth in Company restrictions are not normally installed in homes heated with other fuels.

Mr. Booth introduced data to show that Duke's load factor had increased in the last few years at an average increase of 0.79% per year to 66.56% in 1970 which was one of the highest load factors in the South and the nation. Duke contends that its electric heating program was the major factor in improving the system load factor. Mr. Booth testified that, for any percentage decrease in system load factor, there would be a slightly higher increase in rates needed.

Mr. Booth testified that he believed it absolutely essential that Duke Power Company continue promoting electric heat for the foreseeable future in order to offset growth in summer peak over which Duke has no control.

Mr. Booth concluded that "In order to serve these customers and to maintain a reasonable rate of return with the smallest possible rate increases, it is imperative that Duke Power Company be free to promote the off-peak use of electricity."

CONSTRUCTION PROGRAM

Mr. Carl Horn, Jr., Duke President, testified that the peak demands on the Duke Power Company system were 3,826 MW (mega watts) in 1965, 4,440 MW in 1966, 4,579 MW in 1967, 5,364 MW in 1968, 5,614 MW in 1969 and 6,284 MW in 1970. He further testified that the peak for 1971 to date was 6,622 MW on August 6, and that the system was currently estimating an annual growth in peak demand of 9% through 1975. The projections were 7,005 MW for 1971, 7,651 MW for 1972, 8,347 MW for 1973, 9,101 MW for 1974 and 9,917 MW for 1975. The present total capability of the Company's generating facilities is 7,035,789 KW (kilowatts) consisting of ten steam electric plants, with a capability of 5,652,225 KW, twenty-seven hydro-electric plants with a capability of 1,002,564 KW, and twenty internal combustion turbines with a capability of 381,000 KW. The Company has also entered into an agreement to purchase 288,000 KW of additional capacity during the summer of 1971. Mr. Horn stated that Duke

expects its annual growth in demand to be slightly over 9% through 1975.

Mr. Horn disclosed a program for construction of additional generating capacity in the Duke system of such substantial size as to require Duke to compete in the capital market for funds necessary for the construction program. Mr. Horn testified that, to meet expected demands, 5,840,700 KW of net generating capacity is now under construction, which includes the three Oconee nuclear units, each 886,300 KW; the Cliffside No. 5 coal fired unit, 590,400 KW; Jocassee 1 and 2 hydro-electric pumped storage units, each 152,000 KW; and two coal fired units at Belews Creek, each 1,143,200 KW. These are to be completed and brought into service by the end of 1975, at a cost of approximately one billion dollars. This does not include the proposed 2,300 megawatt McGuire Nuclear Station units scheduled for service in 1975 and 1977 at an estimated cost of about $500,000,000. This program more than doubles the present generating capacity and the present plant investment. The basic generating stations are already planned, with one or more plants being completed each year through 1977, and with either planning or construction money required for all plants at various stages during each year. Interruption of the construction program because of inadequate funding would produce delays in meeting the estimated electric demand. The Company's ability to maintain adequate service to the public is dependent upon completion of this construction program as planned.

Mr. Horn testified that, from now through 1973, about 27% of the money for the construction program will come from retained earnings and provisions for depreciation, with the remaining 73% to be raised through the sale of new securities to the public, principally first mortgage bonds and common stock.

Mr. Horn further testified that the present outstanding bonds of the Company contain requirements that no new bonds shall be issued if the earnings of the Company do not cover the interest requirements of the bonds at least two times before income taxes. The times interest coverage record of the Company declined from 6.07 times interest in 1965 to 3.13 times interest at the end of the test period of Duke's preceding rate case, December 30, 1969 (Docket No. E-7, Sub 120). The Duke testimony contends that the interest coverage as computed in the manner required by the bond indenture was only 2.1 times the interest on bonds already outstanding for the twelve months ended May 31, 1971 (the test period). Duke's evidence further contends that under the method of computation of earnings coverage of fixed charges required by the Securities and Exchange Commission in a registration statement, Duke's coverages have declined to 1.93 times at the end of the test period, May 31, 1971.

FUEL

Since the increased cost of fuel has been the major factor which has caused the decline in net income of Duke Power Company, both the Company and the Staff presented fuel witnesses.

Testimony of Applicant's Fuel Witness

William T. Robertson, Jr., Manager of fuel purchases for Duke's purchasing agent subsidiary, testified as to the quantities and prices of fossil fuels purchased for Duke Power Company. Mr. Robertson presented exhibits and testimony to show the increases in fuel costs experienced by Duke and the anticipated fuel costs for Duke in the near future.

Mr. Robertson testified that in 1970 the Company consumed 13 million tons of coal at a cost of $124.6 million, 73 million gallons of No. 2 fuel oil at a cost of $7.9 million and 20.9 billion cubic feet of natural gas at a cost of $7.8 million. Mr. Robertson cited the 1969 consumption of 11.9 million tons of coal at a cost of $86.4 million, 31.1 million gallons of No. 2 oil at a cost of $3.25 million and 7.5 billion cubic feet of natural gas at a cost of $2.6 million to demonstrate the magnitude of Duke's fuel cost increase.

Mr. Robertson testified that for the first six months of 1971, the "As Purchased" fuel costs for Duke in cents per million BTU (¢/MBTU) were:

Coal	Natural Gas	No. 2 Oil	Combined Total
43.26	44.14	82.05	44.42

Mr. Robertson predicted that these prices would remain essentially constant until October 1971 when the cost of coal would increase approximately 4¢/MBTU due to a renegotiation of the United Mine Workers of America Contract. Mr. Robertson emphasized that the 4¢/MBTU increase that he predicted included only wage and welfare fund increases; it did not include increases for (a) mine safety laws, (b) transportation cost increases, (c) legislative controls on surface (strip) mining, or (d) increasing taxes and materials costs. Mr. Robertson called attention to the fact that the Commission Staff filed a report on the accuracy of Duke's fuel cost predictions that showed that Duke's largest error in fuel cost predictions since 1965 was 8% in 1970 and this prediction was too low. Mr. Robertson, through testimony and exhibits, showed that Duke's fuel cost increase compared favorably with other east coast utilities and industries.

Mr. Robertson testified that increased exports of coal and lower productivity per man-day decreased the supply of coal in relation to demand in Districts 7 and 8. Mr. Robertson

stated that mine safety laws had caused the productivity per man-day to decrease to 15 tons per day, with no technological improvements evident to increase productivity in the immediate future.

Mr. Robertson summarized his testimony by stating, "The fundamental conditions conducive to continuing high prices and costs from Districts 7 and 8 are: high levels of demand, constraints on supply and no change, or declining productivity, all of which are expected to continue indefinitely. In addition, the expiration of the UMWA contract at the end of September will, in all probability, result in a new contract providing substantial increases in wages and benefits. The enforcement of the mine safety laws, shortages of skilled manpower and the absence of any prospects for significant technological improvement all indicate further and continued increase in the cost and price of coal."

Under cross-examination by Mr. Hipp, Mr. Robertson pointed out that regardless of the time of renegotiation of contracts, price increases due to the new UMWA contract would be effective at the time of the UMWA contract settlement. Mr. Robertson admitted that his labor and welfare cost increase in coal price did not consider competition holding down the costs because Duke has approximately 90 percent of its coal under contract. Under questions from Mr. Hipp, Mr. Robertson admitted that some of the industrial coal referred to in his direct testimony was not necessarily utility grade coal, but a premium grade coal.

Under cross-examination by Mr. Benoy, Mr. Robertson testified that Duke considers acceptance of all coal under contract to be an obligation, regardless of spot market conditions. Mr. Robertson also stated that Duke had sued some of its contractors for non-delivery, but felt they had no substantial case against other contractors. Mr. Robertson admitted that coal not delivered under contract had to be replaced by purchases in the spot market at spot market prices. Mr. Robertson stated that he did not consider any impact from the price and wage freeze in his testimony or exhibits.

Testimony of Staff Fuel Witnesses

Mr. Paul Fahey, Commission Staff coal consultant, testified that there was a rapid increase in the price of coal in 1970, with the increase reaching its peak late in the year. Mr. Fahey stated that some of the increase was due to an apparent willingness on the part of the buyers to pay any price, reasonable or unreasonable, because most large users of industrial coal were having difficulty in maintaining an adequate supply. Mr. Fahey testified that the problem started in 1969 when mining production did not equal consumption by users; however, the large demand for coal at very high prices in 1970 resulted in some increase

in production and prices began to firm up, and even decrease, and substantial quantities of coal were available by the Spring of 1971.

In regard to Duke Power Company, Mr. Fahey testified that he had examined its records and found the language of the coal contracts written prior to 1971, "leaves something to be desired." Mr. Fahey stated that contracts written in 1971 contain improved provisions for price escalation due to labor increases because in the new contracts the Seller must share in the cost increases. Mr. Fahey testified that Duke purchases about 96% of its coal from District 8 and that during the fiscal year 1971, the Tennessee Valley Authority purchased coal from District 8 at an average of 41.34¢/MBTU (when adjusted to Duke's freight rate), 1.92¢/MBTU or 4-5% less than the cost reported by Mr. Robertson for the first six months of 1971. Furthermore, Mr. Fahey stated that coal was available from District 8 at lower prices, because he, while acting as a consultant for South Carolina Public Service Authority (SCPSA), purchased a substantial amount of coal (37,000 tons) using competitive bidding procedures that could have been delivered to Duke for 39.13¢/MBTU.

Mr. Fahey testified that Duke should project a coal cost of no greater than 45.25¢/MBTU. Mr. Fahey gave three reasons for projecting a price lower than Mr. Robertson's projected price:

(1) Mr. Fahey considered President Nixon's wage and price freeze order;

(2) Mr. Fahey employed productivities found in Duke Power Contracts of 35-20 tons per man-day instead of the 15 tons per man-day used by Mr. Robertson when calculating wage increase effects on coal cost; and

(3) Because of the increase of nuclear electric generating plants, Mr. Fahey considered competition in the coal industry to be increasing, resulting in a softening of prices.

Mr. Fahey summarized his testimony by stating, "I believe the language of the purchase contracts can be improved to the advantage of Mill-Power Supply Company and Duke Power Company. Among the rights which should be reserved to the Buyer are the right to reject coal which does not reasonably comply with the purchase specifications and the right to buy coal for the Seller's account to make up deficiencies in performance which are not excusable under the terms of the contract. The price adjustment formula used in contracts issued in 1971 should be enlarged and adopted as a standard for all contracts in the future. Provision should be included to limit price adjustments using the man-day productivity, supply cost, and other cost factors existing at the time the contract was made. The Buyer should not bear the total burden of all future cost changes. The Seller should assume part of the risks. A greater element

of competition should be helpful in maintaining reasonable prices for coal."

Several points were brought out in Mr. Benoy's cross-examination of Mr. Fahey. Mr. Fahey stated that he did not believe that 1970 auctioneering and failures to deliver would exist in 1972. Mr. Fahey also stated that the TVA has been successful in keeping down coal prices by open competition and that the cost to the TVA for all coal procurement services is 1.6¢/ton of coal purchased. Mr. Fahey stated that the TVA's bidding system is open and bidders and prices are disclosed; furthermore, all long-term contracts guaranteed with a performance bond. Mr. Fahey testified that SCPSA's bids put out in December of last year and June of this year brought responses from some of Duke's suppliers in each case. Mr. Fahey stated he believes that competition, at the same time, with the same lot of coal, should result in better prices, even with a system less rigid than TVA's system. He further stated that the introduction of such a system would cost Duke very little, and a one cent per ton reduction would save Duke $150,000.

During cross-examination of Mr. Fahey by Mr. Griffith, several points were discussed. Mr. Fahey admitted that the coal burned by the TVA did not necessarily meet the sulfur content requirements of the State of North Carolina. Mr. Fahey stated that the TVA owns coal reserves which it leases to contractors who mine the coal for TVA. Mr. Fahey testified that the SCPSA bidding results were not made public, only SCPSA and the successful bidders know the results of the bidding. Mr. Fahey admitted that SCPSA purchased coal on contract at 23.32¢/MBTU at the mines and that Duke bought over 212,000 tons or 21% of its spot coal during May through September below the SCPSA contract price of 23.32¢/MBTU. Mr. Fahey testified that the TVA did no better than Duke during the 1970 "coal crisis"; however, he added that TVA did better at other times. Mr. Fahey admitted that he allowed no increase for taxation in his price estimate of 45.25¢/MBTU. Mr. Fahey testified that he did not believe that there is a real possibility that strip mining will be abolished; however, there could possibly be stricter land restoration enforcement. He stated that this stricter enforcement of land restoration should cost less than 10¢/ton. Mr. Fahey admitted that Duke's consumers pay an average of 1.73-1.74¢/kilowatt hour (¢/KWH) while the national average is 2.05¢/KWH; however, he added that the TVA's average is 1.22¢/KWH.

Robert K. Koger, Director of Engineering for the Commission Staff, testified that Duke Power Company's conversion to a larger percentage of generation by nuclear units over the next few years will result in significant unit cost reductions in production expenses. During 1972, the effects of the start-up of the Oconee Nuclear Plant cannot be precisely determined due to uncertainties over the operation of the unit.

Andrew W. Williams, Commission Staff Engineer, testified that if the Oconee Nuclear Unit I comes in as scheduled on March 1, 1972, and achieves a 70% load factor, the production expense for 1972, allocated to North Carolina retail, will increase over the test year production expense by $5,845,459 if Duke's coal cost prediction is assumed or will increase over the test year production expense by $50,954 if Mr. Fahey's coal cost prediction is assumed. Mr. Williams further stated that if Oconee I achieves a 90% load factor, then the production expense for 1972, allocated to North Carolina retail, will increase over test year production expense by $1,445,059 if Duke's fuel cost prediction is assumed or will decrease below the test year production expense by $4,202,698 if Mr. Fahey's coal cost prediction is assumed.

Testimony of Applicant's Rebuttal Witness

Austin C. Thies, Duke Vice President of Production and Transmission, offered rebuttal testimony concerning the direct testimony of Mr. Robert K. Koger and Mr. Andrew W. Williams. Mr. Thies stated the 90% load factor for Oconee Nuclear Unit I in 1972 is not a reasonable assumption. He stated that Duke Power Company has experienced delays at Oconee and will continue to experience delays as the result of "normal" start-up and shakedown problems which are connected with any large plant.

Mr. Thies further testified that the 90% load factor furnished by Duke to the Staff had been prepared in the fall of 1970. Since that time, Mr. Thies stated that the most optimistic commercial operation date for Oconee Unit I had been changed from January 1, 1972, to March 1, 1972. The change was the result of actual delays experienced at Oconee and did not consider the effect of any further delay because of the new AEC licensing regulations.

Mr. Thies offered as an exhibit a list of the twelve largest nuclear power plants in operation at the end of 1970. The exhibit shows the load factor of each by year of operation. The exhibit also shows that the average load factor of the twelve plants was 20.5% for the first year of operation and 32.25% for the first two years of operation.

In reply to a question concerning the "Calvert Cliffs" decision, (Calvert Cliffs Coordinating Comm., Inc., et al v. Atomic Energy Comm., __US App DC__, __F2d__, 91 PUR 3d 12, 1971), Mr. Thies testified that this decision could further delay the operation dates of Oconee Units I and II. Mr. Thies introduced an exhibit showing that under the most favorable conditions, full load cannot be reached before mid April 1972, and a more likely date, which allows for some administrative delays, is mid June 1972. Mr. Thies further stated that each day's delay on Oconee Unit I can raise Duke's cost from $100,000 to over $200,000, depending upon the season of the year.

Mr. Thies gave the present problem of vibration in a primary coolant pump Duke was experiencing at Oconee I as an example of the kinds of delays which nuclear plants experience. He stated that this problem was expected to delay Oconee I from three to ten weeks. He stated that if the load factor on Oconee Unit I dropped to 50% in 1972, the fuel costs would rise by approximately $9 million over Mr. William's study.

Mr. Thies testified that decreased availability of natural gas could cause the total generating expenses to be greater than data in Mr. Williams' study indicates.

In answer to questions about the possible gas shortage, Mr. Thies testified that fuel costs for 1972 would rise by approximately $7 million over Mr. Williams' study if there were no gas available during 1972.

INTEREST CHARGES

Duke presented voluminous testimony and exhibits relating to the cost of senior debt capital, including the testimony of its President, Carl Horn, Jr.; its Financial Vice President and Treasurer, R. E. Frazier; and its expert Utility Financing Consultant, W. Truslow Hyde, Jr.

The Commission's Staff presented testimony (and related exhibits) on these matters from its consultant, David A. Kosh, a recognized public utility consultant and expert in public utility financing.

Testimony and exhibits of these witnesses reflect the following factual data and information:

Interest rates on long-term debt have risen steadily from 1968 through July 1970 and have since declined slightly up to the present time. Duke, for example, sold bonds with the following stated interest rates:

February 1968 - 6-3/8%	March 1970 - 8-1/2%
February 1969 - 7%	August 1970 - 8-5/8%
September 1969 - 8%	March 1971 - 7-1/2%

These rising interest rates, at a time when Duke's capital requirements have been unusually heavy due to its large construction programs, have caused the imbedded cost of Duke's long-term debt to increase from 5.12% at December 1969 to 6.01% at May 31, 1971, the end of the test year in this proceeding. This increase in the imbedded cost of long-term debt requires over $5,000,000 in additional annual interest charges, based on Duke's test year capital structure, allocated to its North Carolina retail business.

Duke's total interest charges including long- and short-term debt on an annualized basis were $61,002,663 for the test year, with $38,851,986 of this total being allocated to the North Carolina retail operations.

Under Duke's Bond Trust Indenture (Section 2.03), additional First and Refunding Mortgage Bonds may not be issued unless its "available net earnings" (which means net earnings before income taxes) for 12 consecutive calendar months within the 15 calendar months immediately preceding the first day of the calendar month in which delivery of the additional bonds are made to the Trustee, shall have been equal to at least twice the amount of the annual interest charges on all first mortgage bonds outstanding plus the additional bonds proposed to be issued. The amount of earnings available to cover fixed charges is computed before income taxes because interest charges are an allowable expense before income taxes are computed. Based on the test year operations and after accounting and pro forma adjustments, the interest charges coverage ratio computed before income taxes was 2.33 times at the present level rates and will be 2.90 times after the increase in rates herein approved. The interest charges used in computing these ratios include all long- and short-term interest charges annualized.

These interest charges coverage ratios are much smaller than prevailed prior to 1968 when interest rates were much lower than presently exist. Much expert financial testimony was presented in this hearing as to the weight the Commission should give to the interest charges coverage ratio. Duke's witnesses favored a ratio considerably higher than the bond indenture of two times, contending that a higher ratio would protect Duke's bond rating and thereby cause the interest rates on its future bond sales to be lower than would prevail if earnings were only sufficient to provide the lower or minimum bond indenture coverage ratio. Mr. Kosh, on the other hand, argued that so long as the coverage ratio met the bond indenture ratio, Duke could attract its long-term debt capital at reasonable and competitive interest rates.

Data presented by all the cost-of-money witnesses show that Duke's interest coverage ratios have declined from pre-1968 levels but to no greater extent than other utilities and non-utility companies which have maintained similar capital structures and have had similar large long-term debt capital requirements during the 1968-1971 period of increasing high interest rate levels. Staff rate of return witness Kosh contended that the additional revenue dollars which would be required to maintain pre-1968 coverage ratios during this period of high interest rates and heavy demand by Duke for long-term debt capital would be more costly to the ratepayer than would be the higher interest cost that might result if Duke's bond ratings were to be slightly lowered. Actual bond sales by Duke during the 1968-1971 period show that Duke has remained competitive in its ability to attract long-term capital.

RETURN ON EQUITY

The expert witnesses testifying on rate of return and finances of Duke have expressed differences of opinion as to a fair rate of return on equity to provide a fair profit for stockholders under this requirement, varying from the opinion of Mr. Hyde as Duke's outside economic expert as 15%; and Mr. Kosh for the Commission Staff as 11.25%.

Each of the experts' opinions is based upon studies and opinions as to Duke's needs to attract capital required in the market and secure funds for the construction program on a basis fair to the customers and to its existing investors. G.S. 62-133(b)(4).

STATUS OF COST OF SERVICE STUDIES

By Order entered in the prior rate proceeding, Docket No. E-7, Sub 120, on August 18, 1970, Duke was required to proceed with cost of service studies and meter-hour consumption studies to provide the basis for a review of the rate groupings and rate classifications assigned to the various classes of customers. The final Order in Docket No. E-7, Sub 120, provided that the rates fixed in that proceeding should remain in effect "for no longer than the completion of Duke's cost of service studies and until investigation and Order of the Commission determining the effect of said studies on the rates of Duke, as a factor affecting the reasonableness of said rates, after notice and hearing on the results of such cost of service studies". Duke filed said cost of service studies with the Commission on December 30, 1971, consisting of a voluminous compilation of data and statistics from said hour-meter readings on all classes of customers. The studies reveal the need for extensive analysis, review and study to determine the validity of the methods and samples utilized, and notice and hearing prior to any final determination by the Commission as to the effect of said studies on the determination as to the justness and reasonableness of Duke's rate classifications. The Order in Docket No. E-7, Sub 120, requires that notice be given of said cost of service studies and an opportunity to be heard in connection with said cost of service studies. The studies were required by Order in Docket No. E-7, Sub 120, and were not completed and filed at the time of the public hearing herein and are not a part of the formal record in this proceeding. The Commission concludes that this proceeding should be determined on the basis of the present record, notice and hearing, and that the said cost of service studies should be made the subject of separate proceedings with adequate notice and opportunity to be heard to all parties who might be affected thereby.

Based upon all of the evidence of record, including the testimony and exhibits of all parties, the Commission makes the following

FINDINGS OF FACT

1. That Duke Power Company is duly organized as a public utility company under the laws of North Carolina, holding a franchise from the Utilities Commission to furnish electric power in a major portion of the State of North Carolina under rates and service regulated by the Utilities Commission as provided in Chapter 62 of the General Statutes.

2. Duke's original cost investment in utility plant dedicated to service of its North Carolina retail customers as of May 31, 1971, (end of test-period year) is in the sum of $1,094,666,219. To be deducted from said original cost investment is allowed depreciation in the sum of $321,644,494, and contributions in aid of construction received by Duke in the sum of $4,805,000, leaving a net original cost investment [as contemplated by the provisions of G.S. 62-133(b)(1)] in the sum of $768,217,000.

3. Duke's working capital allowance, to be added the original cost component of its rate base, is computed as follows:

(a)	Working Capital, based upon 45 days operations and maintenance expense:	$27,000,000
(b)	Materials and Supplies:	37,562,000
	Sub Total	$64,562,000
(c)	Less Federal Income Tax Accruals of:	2,026,000
	Balance	$62,536,000
(d)	Less State Income Tax Accruals of:	769,000
	Balance	$61,767,000

4. The balance of $61,767,000 set forth immediately above should be added to Duke's original cost of plant, resulting in a total net original cost of plant in service at the end of the test year of $829,988,000.

5. Pursuant to the decision of the North Carolina Supreme Court in the Lee Telephone Company case, State of North Carolina ex rel Utilities Commission, et als, vs. Morgan, 277 NC 255 (1970), we have not included in Duke's plant in service any sums expended or recorded on Duke's books for plant under construction or for plant held for future use.

6. In the Commission's Order in Docket No. E-7, Sub 120, Duke's most recent general rate case, we found the fair value of Duke's plant in service dedicated to North Carolina retail business to be $735,000,000 as of December 31, 1969. We find here that Duke has added new plant between December 31, 1969, and May 31, 1971, (end of test year), of a fair value of $176,871,000. Having considered the original cost of said plant, less reasonable depreciation, and having considered replacement costs determined by trending original

cost to current cost levels, and by considering the condition, design and usefulness of said plant, we find the fair value of said plant as of May 31, 1971, to be $910,263,000.

7. That Duke's fuel mixture will not be shifting toward a substantial nuclear component within the probable future expense period considered in this Order, and its coal cost should not be higher than those experienced during the test year, and the Commission finds that 45.67 cents per million BTU to be a reasonable fuel expense to Duke to be used in computing its probable future operating expenses.

8. That Duke's revenue under present rates on an annualized basis for customers served at the end of the test period for North Carolina retail service and after accounting and pro forma adjustments was $276,482,000. The reasonable operating expenses (exclusive of taxes) of Duke during the test period, using the actual average cost of fuel of 45.67 cents per million BTU, are $150,494,014. The operating revenues of $276,482,000 includes $8,541,893 representing a growth factor during the test period based on the customers added during the year. The growth factor is a method of annualizing the revenue from customers served at the end of the test period. The net operating income for return at the end of the test period, using the actual average fuel cost of 45.67 cent per million BTU, and after accounting and pro forma adjustments, was $53,918,000, giving a rate of return on the net original cost of plant less depreciation of 6.50%, and a return on equity of 8.88% and a rate of return on the fair value of Duke's property in service of 5.92%. Such rate of return is found insufficient to provide a fair profit to Duke's stockholders considering changing economic conditions, and is insufficient to allow Duke to compete in the market for capital funds on terms which are reasonable and fair to its customers and existing investors.

9. That taking the fair value of Duke's rate base as found by the Commission in its Order of February 12, 1971, in Docket No. E-7, Sub 120, for a test period ending December 31, 1969, of $735,096,000, and adding new plant put in service through May 31, 1971, of $176,871,000, gives a recently found fair value, plus additions of $911,967,000.

10. That the Commission finds that the fair value of Duke's utility property in North Carolina, considering original cost less depreciation and considering replacement cost determined by trending original cost to current cost levels and considering the condition of the property and the outmoded design of some of the older plants, is $910,263,000.

11. That the actual investment currently consumed through reasonable actual depreciation during the test period was $33,915,000.

12. That the net operating income for return at the end of the test period at the fuel cost of 45.67 cents per million BTU was $53,918,000, giving a rate of return on the net original cost of plant less depreciation of 6.50%, and a return on equity of 8.88% and a rate of return on the fair value of Duke's property in service of 5.92%, and such rate of return is found insufficient to provide a fair profit to Duke's stockholders considering changing economic conditions, and is insufficient to allow Duke to compete in the market for capital funds on terms which are reasonable and fair to its customers and existing investors.

13. That the rate of return necessary on the fair value of Duke property, with sound management, to produce a fair profit for its stockholders, considering the economic conditions as they exist, to maintain its facilities and service in accordance with its obligation to its customers and to compete in the market for capital funds on a reasonable basis to customers and stockholders, is 7.11%, which rate of return will produce $23,465,000 of additional gross revenues on North Carolina retail electric service, and will provide a return on equity to the common stockholders of 12%, by providing net income of $41,412,000 on equity of $345,098,000, and is 76% of the $30,884,000 increase applied for, and is an increase of 8.93% over the rates in effect prior to the application of the interim rates allowed in this proceeding, which is an increase of 1.83% more than the interim rate increase of 7.1%, which is included in this final determination.

CONCLUSIONS

The Application of Duke in this proceeding seeks an increase under the proposed rates to produce $30,884,000 of additional annual revenue, based on the customers connected at the end of the test period, on an annualized basis. The following tables based on the Findings of Fact, show the calculations for the $23,465,000 of such increased revenue found to be reasonable from the records in this proceeding:

NET OPERATING INCOME AND NET INCOME DERIVATIONS
DUKE POWER CO. - N. C. RETAIL OPERATIONS
FOR TEST PERIOD-YEAR END MAY 31, 1971 ($000's)

Item	At Present Rates	Increase Approved	At Approved Rates
Gross Operating Revenues	$276,482	$ 23,465	$299,947
Operating Expenses:			
Fuel for Generation	93,770		93,770
Purchased Power	4,930		4,930
Wages, Benefits & Materials	51,794		51,794
Total Operation & Maintenance Expense:	$150,494		$150,494
Depreciation	$ 33,915		$ 33,915
Taxes Other Than Income	26,462	$ 1,408	27,870
Income Taxes - State	1,352	1,323	2,675
Income Taxes - Federal	10,858	9,952	20,810
Investment Tax Credit - Normalized	2,199		2,199
Investment Tax Credit - Amortized	(2,716)		(2,716)
Total Operating Expenses:	$222,564	$ 12,683	$235,247
Net Operating Income for Return	$ 53,918	$ 10,782	$ 64,700
Rate of Return on Fair Value Rate Base	5.92%		7.11%
Net Other Income	$ 24,814		$ 24,814
Income Available For Fixed Charges	$ 78,732		$ 89,514
Fixed Charges:			
Interest on Long Term Debt	$ 35,878		$ 35,878
Interest on Short Term Debt	2,974		2,974
Total Net Interest Charges	38,852		38,852
Net Income Before Preferred Dividends	39,880		50,662
Preferred Dividends	9,250		9,250
Net Income for Common Stockholders	$ 30,630		$ 41,412
Common Stockholder's Equity	345,098		345,098
Rate of Return on Common Stockholder Equity	8.88%		12.00%

REASONABLE CAPITAL STRUCTORE AND EMBEDDED COST
DUKE POWER CO. - N. C. RETAIL OPERATIONS
($000's)

TYPE CAPITAL	AMOUNT	TOTAL %	EMBEDDED COST AND RETURN %	OVER-ALL COST RATE %	ANNUAL INTEREST AND RETURNS REQUIREMENTS
Long Term Debt	$597,084	52.05	6.01	3.13	35,878
Short Term Debt	57,143	4.98	5.20	.26	2,974
Preferred Stock	136,931	11.94	6.76	.81	9,250
Common Equity	345,098	30.08	12.00	3.61	44,820
Sub Total	$1,136,256				
Deferred Investment	10,833	.95	0	0	0
	$1,147,089	100.00		7.81	89,514

DUKE POWER CO. - N. C. RETAIL OPERATIONS
RATES OF RETURN ON NET INVESTMENT-ORIGINAL COST AND FAIR VALUE-YEAR END MAY 31, 1971
($000's)

	ORIGINAL COST		FAIR VALUE	RATE BASE
	PRESENT RATES	APPROVED RATES	PRESENT RATES	APPROVED RATES
Electric Plant in Service	$1,094,666	$1,094,666		
Less: Reserve for Depreciation	(321,644)	(321,644)		
Contributions to Construction	(4,805)	(4,805)		
Net Investment in Plant	$ 768,217	$ 768,217		
Working Capital Allowance:				
45 Days Expense-Cash Allowance	27,000	27,000		
Materials & Supplies	37,562	37,562		
Less: Federal Income Tax Accruals	2,023	3,682		
State Income Tax Accruals	769	1,541		
Net Working Capital Allowances	$ 61,770	$ 59,339		
Total Rate Base - For Returns	$ 829,988	$ 827,556	$ 910,263	$ 910,263
Net Operating Income for Return	$ 53,918	$ 64,700	$ 53,918	$ 64,700
Rates of Return on Net Investment	6.50%	7.82%	5.92%	7.11%

1. The Commission concludes that 76% of this proposed rate increase is necessary to provide a fair rate of return to Duke on the fair value of its property.

2. The rates proposed by Duke are found to be unreasonable and unjustified to the extent that they produce any increases in annualized revenue on the customers at the end of the test period in excess of $23,465,000.

3. Duke's cost of service studies to measure the differentials in cost and other factors affecting the classification of rates by end use of electricity were filed on December 30, 1971, but such studies require extensive study and notice and hearing before rates are changed as a result thereof, and they are reserved for future investigation and review and due notice to all classes of customers, with opportunity to be heard on the justness and reasonableness of the cost differentials for the various classifications of services, based on said studies.

4. The Commission concludes from all of the evidence and all of the testimony and the entire record herein that the earnings of Duke have been reduced by increases in the cost of coal and by increases in interest expense and wage costs and other expenses to such an extent that its ability to sell additional bonds and common and preferred stock sufficient to finance necessary construction of additional plant are placed in jeopardy under the present rates.

5. The ability of Duke to provide adequate service in its service area and to construct needed plant to meet the increased demand for electric current and the law requires that its earnings be maintained at a level so as to attract the capital necessary for such program. The increased cost of coal and the increased interest costs are amply shown in the record.

6. The reasonable ratio of common stock, preferred stock and debt capital for the present economic conditions for Duke is 52.05% debt, 4.98% short-term debt, 11.94% preferred stock, and 30.08% common stock.

7. That it would be in the public interest for Duke to pursue a course of action designed to investigate the effects of the use of various types of more competitive purchasing practices, and the requirement of performance bonds or other assurance of delivery or replacement.

8. That Duke's demonstrated reduction in its advertising and promotion expense is in the public interest and it is the further conclusion of the Commission that further reductions should be strived for. No final judgment is made in this docket regarding the advisability of Duke's continuing to promote the sale of electric heating. This matter is to be considered more fully in a docket on the Company's cost of service analyses.

9. The Commission agrees with the Company and Staff witnesses that probable future operating expenses of the Company should reflect the increases which are immediately predictable for the price of coal, and that test year operating expenses should be adjusted accordingly. This is in accordance with G.S. 62-133(c). Based upon estimated increases in coal prices as a result of a United Mine Workers of America (UMWA) wage settlement, among other things, Duke predicted that the average coal price during 1972 would be 48.87 cents per M/BTU. Mr. Fahey, whose estimate was made at a later time than Duke's, and incorporated adjustments for the effects of wage and price controls, estimated the average coal price during 1972 to be 45.25 cents per M/BTU. The Commission has considered all evidence concerning fuel costs, including the present trend toward lower costs due to easing of demand pressures as well as probable effects of the UMWA wage settlement. The Commission concludes that the average total fuel cost of the test year, 45.67 cents per million BTU, is a reasonable estimate of total fuel costs anticipated during the immediately predictable future.

10. Based on testimony of Staff Witnesses Koger and Williams and Company rebuttal Witness Thies, the Commission further concludes that the prospect of any savings in generation costs in 1972, resulting from the operation of the Oconee Nuclear Station is negligible and may, in fact, result in greater over-all operating expenses due to its predicted limited operation of the nuclear powered generators during 1972. However, the Commission concludes from the testimony that once the Nuclear Station is operating at full load factor (expected in late 1973), considerable savings in per unit generation costs should occur and, in that regard, concludes that the Commission Staff should keep the Commission advised of the status of the Company's operation of these Nuclear units together with current estimates on generation costs.

11. Changes in the interest charges coverage ratio have a direct influence on the rate of return to the common stockholder's equity due to the fact that the interest costs must be deducted from net operating income before the rate of return to the common equity capital can be computed. In the instant situation the Commission concludes that it is necessary to provide additional revenues so that Duke's coverage ratio will be adequate, and it results in a rate of return on common equity at the 12% level. A coverage ratio higher than 2.90 times would in itself require additional revenues that would produce a higher return on the common stockholder's equity. These interacting functions of the coverage ratio and the rate of return on common equity, two important earnings criteria recognized in the financial markets from which Duke must seek funds, have been carefully considered by the Commission.

12. Based upon all the expert opinions and testimony and the exhibits and the record regarding Duke's interest coverage ratios, the Commission is of the opinion and finds, as will be hereinafter set forth, that under the existing monetary and economic conditions, Duke's competitive ability to attract long-term debt capital will be protected under the approved increase in rates hereinafter set forth, which provide an interest charges coverage ratio of 2.90 times, before income taxes.

PRICE COMMISSION

The Utilities Commission takes judicial notice of the President's Executive Order No. 11627, entered on October 15, 1971, establishing Phase II of wage and price controls under the Economic Stabilization Act of 1970 beyond the original 90-day period ending November 13, 1971, and the establishment of the Price Commission pursuant to said Order, and the rules and regulations of the Price Commission published in Volume 36, No. 220, Federal Register, December 17, 1971, §300.016, Regulated Utilities, at p. 21,793, as amended in Volume 37, No. 9, Federal Register, January 14, 1972, at p. 652, requiring that regulated public utilities having gross receipts of $100,000,000 or more give notice to the Price Commission of any price increases authorized by regulatory agencies.

The Utilities Commission is further advertent to public statements of guidelines and policies of the Price Commission. The increase approved here is 1.83% more than the interim rates which were approved on June 30, 1971, and which were in effect during the base period prior to the price freeze on August 14, 1971. The Commission concludes that the North Carolina rate procedure and the evidence in this proceeding, and the consideration thereof by the Commission, fixes the rates of Duke in this proceeding on the basis that they will provide no more than the minimum return necessary to assure continued and adequate service. The return actually earned by Duke from the rates previously in effect produced a rate of return of 5.92%, and if continued without the rate increase approved here, would not be adequate to assure continued and adequate service, and this Commission finds and so certifies that the increases are consistent with the criteria established by the Price Commission, and the documentation for such findings are set out fully in the Findings of Fact and Conclusions herein, based on evidence of record of the public hearings herein.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That effective upon bills rendered on and after March 15, 1972, for service rendered after February 15, 1972, the applicant Duke Power Company is authorized and permitted to put into effect increased rates and charges across the board by a flat rate increase of 8.93% in the rates of the Company on each block of power in each schedule, including energy and demand components of applicable schedules, so that the

total monthly bill to each customer will be increased by the same uniform 8.93% increase. Such increase in rate schedules shall produce no more than total annualized additional revenue as of the end of the test period of $23,465,000, being 76% of the increased revenue sought under the proposed rates of $30,884,000, and such amended schedule of rates and charges shall be filed with the Commission by March 1, 1972. The applicant is also authorized to continue the increase in its extra facilities charge to new customers, from 1.6557% to 1.7%, for all customers added after July 1, 1971, under the Order allowing the interim rate increase. The interim rate increase put into effect under the June 30, 1971, Order averaging approximately 7.1% is included in the increase approved here, and is hereby cancelled effective with application of the 8.93% increase in service rendered after February 15, 1971.

2. The rates prescribed in this Order shall remain in effect for no longer than the completion of investigation and hearing on Duke's cost of service studies and a formal determination of the effect of said studies on the rates of Duke, as a factor affecting the reasonableness of said rates, after notice and hearing on the results of such cost of service studies.

3. That Duke Power Company investigate the application of more competitive bidding to its fuel purchasing and the requirement of performance bonds or other assurance of delivery or replacement in its coal contracts. That the results of this investigation shall be filed with the Commission within 90 days of the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This 31st day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-13, SUB 20

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Nantahala Power and Light Company for Authority to Adjust and Increase its Electric Rates and Charges	)	ORDER DETERMINING RATES

PLACE: Swain County Courthouse, Bryson City, N. C.

DATES: June 6 and 7, July 28, August 1, 1972

BEFORE: Commissioner Marvin R. Wooten, Presiding; Commissioners John W. McDevitt, Miles Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

R. C. Howison, Jr.
Joyner & Howison
Wachovia Bank Building
Raleigh, North Carolina

G. Clark Crampton
Joyner & Howison
Wachovia Bank Building
Raleigh, North Carolina

For the Protestants:

Leonard W. Lloyd
Attorney at Law
P. O. Box 515, Robbinsville, North Carolina
Appearing for: Graham County Board of County Commissioners and Graham County Board of Education

For the Commission Staff:

Edward B. Hipp
Commission Attorney
One West Morgan Street
Raleigh, North Carolina

BY THE COMMISSION: This proceeding was instituted on December 30, 1971, with the filing by Nantahala Power and Light Company (hereinafter called "NANTAHALA") of an Application for authority to increase its electric rates and charges for its retail customers in North Carolina by an increase of 15% in all retail rates, to produce additional gross annual revenues of $733,655, based on the test year ending December 31, 1971.

The increases applied for are based on allegations of general revenue needs to be distributed to all classes of customers. The Application and the exhibits attached thereto contend that the rate increase is needed and required due to a decline in the earnings and rate of return of Nantahala caused by increased cost of operations, including salaries, materials, supplies and increase in the cost of purchase power based upon a revised purchase agreement for purchase and exchange of power from Tennessee Valley Authority.

The increases applied for are a uniform across-the-board increase of 15% in charges for electricity to retail customers and an increase in the charge for restoration of service from $5.00 to $5.75 and an increase in the deposit for temporary service from $25.00 to $28.75.

By Order of January 26, 1972, the Commission suspended the rate increase applied for and set the application for investigation and hearing, and declared the Application to be a general rate case, with public hearing set to be heard in Raleigh, North Carolina, on June 6, 1972. By Order of February 28, 1972, the Commission changed the place of hearing from Raleigh, North Carolina, to Bryson City, North Carolina. The Order of Investigation required that public notice be given of the proposed rate increase announcing the time and place of public hearing, as amended, in Bryson City, North Carolina.

Public hearing was held in the Swain County Courthouse, Bryson City, North Carolina, on June 6 and 7, 1972, and in Raleigh, North Carolina, on July 28 and August 1, 1972, with counsel for parties appearing and participating, as shown above.

SUMMARY OF TESTIMONY

Nantahala offered testimony and exhibits of witnesses as follows:

W. T. Walker, Franklin, North Carolina, President of Nantahala, testified that Nantahala was founded by the Aluminum Company of America (ALCOA) and all its stock is owned by Alcoa; that at the end of the year 1971 Nantahala had an average of 24,070 customers, 163 employees, 2,252 miles of distribution lines, 189 miles of transmission lines, and a total service area of approximately 1,729 square miles, 323 square miles of which are included in the Great Smoky Mountains National Park; that customers are divided up into 21,316 residential customers, 2,656 commercial customers and 80 industrial customers; that at the end of 1971 the original cost of production plant in service was $26,700,499, the transmission plant was $4,579,876, and the distribution system and other facilities made the total investment for power facilities in the area more than $42,000,000; that Nantahala's service area has a population density of 29.6 persons per square mile (or a density of 50.2 persons per square mile for the 1,460 square miles which remain if National Park service lands are deducted); that kilowatt-hour sales in 1971 amounts to 385,169,389 kilowatt hours, an increase of 123.3 percent over the 1960 sales; and that Nantahala requested a 15% across-the-board increase to be applied uniformly to all rate schedules.

Robert D. Buchanan, Pittsburgh, Pennsylvania, Assistant Controller, Taxes and Financial Accounting, Aluminum Company of America, testified that the gross original cost of electric utility plant, including construction work in progress, totaled $42,327,152 at December 31, 1971; of that amount, nearly $16,000,000 was constructed during World War II and was amortized over a five-year period, instead of a normal life for such property; that this property is fully depreciated for both book and tax purposes and the total

depreciation reserve on the books at December 31, 1971, was $28,043,942; that adjustment of $6,527,805 was made, reducing the reserve for depreciation to $21,516,137, the amount the reserve would have been if normal depreciation rates had been used; that operating revenues recorded on the books for the test period totaled $5,289,935 and operating and maintenance expenses totaled $2,235,022; that other operating expenses gave total operating revenue deductions of $4,512,952, leaving a balance of net operating income of $776,983; after adjustments, net operating income was reduced by $302,797 to $474,186; that the ratio of net operating income to net investment plus allowance for working capital produces a rate of return of 2.24% under present rates and 3.83% under proposed rates.

John J. Reilly, New York, New York, Director of Valuation and Appraisal Services for Ebasco Services, Inc., testified that the trended original cost of Nantahala's utility plant in service at December 31, 1971, was estimated with the use of the Handy Whitman Index to be $125,290,959; that the trended original cost, less depreciation of Nantahala's electric utility plant in service at December 31, 1971, was estimated to be $77,811,864, which is 62% of the trended original cost undepreciated; that the estimated accrued depreciation was $47,479,095, which is 38% of the trended original cost; and that the fair value of Nantahala's property under the jurisdiction of the Commission for rate-making purposes is $46,654,000.

W. W. Carpenter, New York, New York, Director of Utility Rate Services for Ebasco Services, Inc., testified as to the portions of the company's plant cost and expense related to the company's North Carolina jurisdictional electric service, and the net operating income derived from such service under present rates; that after all allocations, net operating income for return was $435,804; that based on "Net Investment" the rate of return was 2.25%, while, based on fair value, the rate of return was .96%; and after the proposed increase in revenues, the net operating income for return was calculated to be $802,119; the rate of return based on fair value increased to 1.70%.

George Popovich, Power Engineer for Alcoa, Pittsburgh, Pennsylvania, testified that the new Fontana Agreement gives a joint entitlement to Nantahala and Tapoco, Inc., (TAPOCO), a subsidiary of Alcoa with hydro generators downstream from Nantahala and TVA's Fontana dam; that the entitlements are apportioned between Nantahala and Tapoco according to the contribution of each to the new Fontana Agreement; that under no case was Nantahala to receive less than its resources when considered singularly, and any benefits gained in the Agreement would be fairly shared; and that Nantahala traded its 1,522.5 GWH of peaking deviation energy to Tapoco for 6.6 MW of peaking capacity resulting in a $95,000 yearly savings for Nantahala and a $70,000 yearly savings for Tapoco.

Robert L. Schlesinger, New York, New York, Director of Financial Services, Ebasco Services, Incorporated, New York, testified that Nantahala's adjusted capital structure at December 31, 1971, amounted to $15,800,000, and was represented in its entirety by proprietary capital, but in determining reasonable capital costs to establish a fair rate of return, a balanced capital structure containing debt and preferred stock, as well as common equity, should be considered; that an appropriate capital structure would consist of approximately 55% debt, 5% preferred stock and 40% common equity; that the embedded costs of long-term debt of Alcoa at December 31, 1971, was 6.13%; that preferred stock money costs ordinarily are higher than debt costs, and that the rate assigned for this component of capitalization should at least equal the debt cost, 6.13%; that in his opinion the common stock equity component of capital developed for Nantahala should earn at least 12-1/2%; that using the assumed capital structure and the embedded long-term debt and preferred stock costs of 6.13% and a 12-1/2% return on common equity, an overall cost of capital of 8.68% results; that a return of 6.70% on the fair value of the company's properties would constitute a fair rate of return, but even if the full increase in rates requested is granted, a rate of 6.70% will not be achieved; and that it will only produce a coverage of interest requirements before income taxes of 3.04 times, sharply below the coverage he regards as necessary for Nantahala.

The Commission Staff offered testimony of witnesses as follows:

Allen L. Clapp, P. E., Commission Utilities Engineer, testified that the service of Nantahala is adequate and that provisions have been, or are being, made to assure that the service will improve in the future; that the Staff recommends to Nantahala the following additional programs to aid in the design and operation of the Nantahala system: That a formal right-of-way maintenance program be instituted; that adequate right-of-way be obtained to eliminate problems from tree growth in areas in which owners refuse to allow trimming; that formal pole line inspection and maintenance procedures be instituted; that a formal continuing program of line voltage and current measurement be instituted; that complaints and outages should be reviewed regularly in order to compare performance between areas and over a period of time; that all exposed live parts in substations and other station areas be properly guarded by either physical guarding or isolation by elevation, according to Part I of the National Electrical Safety Code, and applicable sections of the National Electrical Code; that special attention should be paid to the prevention of physical damage to station grounds and personnel from loose ground pads and exposed ground bus; and that statistical sampling of meters be investigated.

William E. Carter, Jr., Staff Accountant, testified that the rate of return on net investment plus allowance for

working capital for retail operations under present rates is 2.52% and under proposed rates would be 4.24%; that net operating income for return for retail operations under present rates totaled $494,000 and would increase to $831,927 under proposed rates; that net plant in service at December 31, 1971, totaled $19,613,911 after an adjustment of $6,527,805 to the depreciation reserve per books, on property placed in service during World War II, to the amount it would have been had the normal depreciation rates been used instead of five-year amortization; that the return earned on common equity, which comprises 100% of the capital structure of Nantahala, was 3.25% during the test period and under proposed rates would be 5.50%; that under an assumed capital structure of 55% debt, 5% preferred stock and 40% common equity, the rate of return earned on common equity during the test period would have been 3.24% and under proposed rates would be 8.85%; that using this capital structure, the return on net investment in plant plus allowance for working capital would increase to 3.84% under present rates and 5.56% under proposed rates.

William J. Willis, Staff Electrical Engineer, testified on separation of the company's operations into those operations in which the Commission has jurisdiction; that he accepted the company's procedure of estimating class peak responsibility by using corrected 60-minute coincidental demand measurements within the total system; that primary plant accounts were predominantly clarified as demand or energy related and allocated on the basis of the "Peak Responsibility" method or on an adjusted energy level basis; that the "PL" rate would result in a loss to the company if energy was sold in the bottom four blocks of that schedule and that the bottom rate block of the "LC" schedule, if used, would result in a loss to the company; that the bottom rate block of the "PL" and "LC" schedules should be changed to 4.3 mills per kilowatt hour and 3.25 mills per kilowatt hour, respectively; and that any increase that might be granted in the proceeding be placed across-the-board.

Andrew Williams, Staff Nuclear Engineer, testified that under the new Fontana Entitlement, Nantahala receives the same average amount of energy it could generate on its own; Tapoco receives 29.9 GWH per year less than the average amount it could generate; Nantahala gains 5.1 MW of capacity plus 6.6 MW of additional peaking capacity over its own resources; Tapoco loses 53.1 MW of capacity from its own resources; that it is not economically feasible for Nantahala to build a fossil-fired generating plant or an internal combustion turbine generator; that Nantahala can purchase power from the TVA more economically than from Duke Power Company or Carolina Power & Light Company; that under an alternate method of apportionment, Nantahala would gain an additional 19.6 MW of capacity and Tapoco would lose an additional 19.6 MW of capacity; and that the data used in these studies was later revised by Mr. Popovich.

Public Witnesses testified as follows:

John Preston, Controller, Cabinet Division, Magnavox Company, Greenville, Tennessee, testified that his company had two furniture plants in the Nantahala service area; that the Andrews plant employed 700 persons with annual electric bill of $56,170; that he protested the 15% increase because it would increase the electric cost of the Andrews plant by $8,426; that the Bryson City plant employed 350 individuals and had electric bill in 1971 of $41,842, and the 15% increase would increase the electric bill at Bryson City by $6,276; that the cost of electricity in these plants is approximately 5% of the cost of production.

William Davis, Chairman of the Board of Stewards of the Methodist Church, Bryson City, testified that his church had 206 members; that it had an electric bill of $2,000 annually, out of an operating budget of $16,000; that the power bill was 12% to 13% of their total budget; that the proposed increase would increase their bill $300.00 a year, and he considered it excessive.

DISCUSSION OF NEW FONTANA AGREEMENT AND APPORTIONMENTS BETWEEN NANTAHALA AND TAPOCO

The New Fontana Agreement is a contractual arrangement effective from January 1, 1963, to December 31, 1982, between the Tennessee Valley Authority (TVA) and the Aluminum Company of America (Alcoa), Tapoco, Inc., (Tapoco), and Nantahala Power and Light Company (Nantahala) which provides, among other things, for the coordinated operation of the power production and transmission facilities owned by TVA, Nantahala and Tapoco. Nantahala and Tapoco are wholly owned subsidiaries of Alcoa, established by Alcoa to develop certain of the hydroelectric sites in Western North Carolina and adjacent areas. The Companies were founded to produce and supply large quantities of low cost electricity to Alcoa's aluminum smelting facility at Alcoa, Tennessee. Nantahala assumed the public utility load in Southwestern North Carolina in addition to transporting power to Alcoa.

The New Fontana Agreement was formalized to provide TVA with peaking power and additional energy and to "firm up" power available to Nantahala and Tapoco. The generating capacity of Nantahala and Tapoco is all hydroelectric and required "firming up" to make the power available less dependent on stream flow conditions.

Under the New Fontana Agreement, eight of Nantahala's hydroelectric plants with an installed capacity of 97.2 megawatts and Tapoco's four hydroelectric plants with an installed capacity of 326.5 megawatts are operated at the TVA's direction with all the electric energy generated at these plants made available to the TVA at the points of generation. In return for this energy, TVA makes energy available to the combined Nantahala-Tapoco System at an average rate of 218,300 kilowatts or 218.3 megawatts (MW),

subject to certain conditions including an adjustment for losses (6.0 MW), "extended" reductions (90 MW), "peaking" reductions (90 MW) and an addition for planned peaking deviation (8.8 MW).

An "extended" (curtailable) reduction allows TVA to reduce the power available by 100 MW (± 10%) for a continuous period of not more than 91 days nor less than 21 days. Such reduction is limited in number to one in any 12-month period ending each June 30. A "peaking" (interruptible) reduction allows TVA to reduce power for not more than 10 minutes upon three minutes notice in either one or two blocks of 90 MW. These reductions are limited to 10 minutes in one day and 10 times in any one year.

The net entitlements to the Nantahala-Tapoco System under the New Fontana Agreement are an assured capacity of 67.3 MW, interruptible capacity of 75 MW and curtailable capacity of 90 MW. The associated energy entitlements include 41.1 average megawatts (Avg. MW) of primary energy, 81.2 Avg. MW of interruptible secondary energy and 82.8 Avg. MW of curtailable secondary energy, plus a 2,500 MWH energy allowance for peaking deviation.

"Apportionment Agreement" Between Nantahala and Tapoco

The New Fontana Agreement makes electric power available jointly to Nantahala and Tapoco but does not specify what each of them is entitled to receive. Prior to June 1, 1971, Nantahala "took" what energy and capacity it needed to meet its utility load. This involved subtracting the public utility load and losses plus the generation of the three small plants not under the New Fontana Agreement from 36,583,333 KWH per month and "selling" any "excess" to Alcoa. It became necessary to apportion the entitlements under the New Fontana Agreement when Nantahala's load grew sufficiently to make this excess nil. On June 1, 1971, Nantahala and Tapoco entered into an agreement, the "Apportionment Agreement", to apportion the power and energy available to Nantahala and Tapoco under the New Fontana Agreement and to apportion the obligations of Nantahala and Tapoco thereunder. Under this Agreement, Nantahala receives up to 41.1 MW of primary power and the associated energy; in addition, Nantahala receives up to 13.2 MW of peaking power, 6.6 MW of which constitute peaking power to which Tapoco would be "entitled" except for this agreement of the parties which states "that Nantahala shall be entitled to this power in lieu of 1,522.5" MWH of deviation energy. Deviation energy is energy granted in return for the value of energy storage capabilities of certain hydroelectric facilities. Tapoco receives all power and energy available under the New Fontana Agreement that remain after Nantahala takes its "entitlements".

Company Witness Popovich described the methods used in determining the apportionment of the New Fontana Agreement entitlements in detail. In general, the Company's method

took each Company's capability under adverse conditions, separately, that being for Nantahala (84.3 MW) and that being for Tapoco (302.8 MW); removed each system's largest unit, Nantahala's 37.0 MW unit and Tapoco's 38.7 MW unit, respectively; and further removed 10% spinning reserve to obtain the assured capacity of each system, thus calculated to be for Nantahala (42.6 MW) and for Tapoco (237.7 MW). Next, the Company's method ratioed the separate assured capacities of each system to the sum of the assured capacities of each system to determine the percentage of power "contributed" by Nantahala (15.2%) and Tapoco (84.8%) to TVA from which both Tapoco and Nantahala are provided power under the New Fontana Agreement. The Company method did, however, recognize that TVA, in operating Nantahala and Tapoco as a combined system, only needed to subtract one "largest unit", Tapoco's 38.7 MW unit, and 10% spinning reserve from the system capability to obtain the assured capacity (387.1 MW - 38.7 MW - 34.8 MW = 313.6 MW). (Further discussion of a method which would follow this procedure in the apportionment agreement itself was presented under one of the Staff's proposed alternatives.) The percentages obtained by considering Nantahala and Tapoco separately (as followed by the Company) were applied to the assured capacity available to TVA to apportion the assured capacity, including capacity "gained" by TVA considering Nantahala and Tapoco as one system, Nantahala (313.6 MW X 15.2% = 47.7 MW) and Tapoco (313.6 MW X 84.4% = 265.9 MW).

The rationale of the Apportionment Agreement is that it allocates on the basis of each company's contributions with the provision that Nantahala does no worse than it would operating by itself. The agreement apportions 47.7 MW of assured capacity to Nantahala, plus 6.6 MW of peaking deviation from Tapoco in return for Nantahala's share of peaking deviation energy. Tapoco receives 19.6 MW of assured capacity, 75.0 MW of interruptible capacity and 90.0 MW of curtailable capacity.

Nantahala contributes 41.1 Avg. MW of primary energy (adjusted); primary energy being defined as hydroelectric energy which is available from continuous power. Tapoco contributes 86.1 Avg. MW of primary energy (adjusted) and 82.8 Avg. MW of secondary energy (intermediate grade - adjusted); secondary energy defined as all hydroelectric energy other than primary energy, frequently limited to that portion of secondary energy available over a specified percentage of time. The apportionment agreement by the company entitles Nantahala to 41.1 Avg. MW of primary energy and no secondary energy, secondary energy not considered suitable for public utility load because of its inconsistent availability. Tapoco receives 81.2 Avg. MW of high grade secondary energy (energy associated with interruptible capacity), 82.8 Avg. MW of intermediate grade secondary energy (energy associated with curtailable capacity), and no primary energy.

The Staff proposed alternate methods of apportionment. Both methods considered Nantahala and Tapoco as a combined system instead of separately. One alternative assumed Alcoa as the public utility instead of Nantahala and presented a model to demonstrate resultant savings to Nantahala's customers in the test year. However, when income taxes were included, this plan would have resulted in a greater cost to Nantahala's customers in the test year.

In the other alternative, the Staff redetermined the percentage capacity contributed by each system by considering Nantahala and Tapoco as a combined system instead of separately. In this Staff method, the equivalent capability (38.7 MW) of the combined system's largest unit was removed by taking an equal percentage of capacity (10%) from each system, Nantahala (84.3 MW - 8.4 MW = 75.9 MW) and Tapoco (302.8 MW - 30.3 MW = 272.5 MW). Another 10% of capability was removed for spinning reserve leaving an apportioned contribution of assured capacity available to TVA of 68.3 MW for Nantahala and 245.2 MW for Tapoco. This method determined a Nantahala contribution to the New Fontana Agreement of 68.3 MW or 21.8% of the total capacity instead of the company method of 47.7 MW or 15.2% of the total capacity available to TVA. The Staff contended that since TVA considers Nantahala and Tapoco as a combined system, the Apportionment Agreement should have initially considered the companies as a combined system instead of separately; thereby, apportioning a larger percentage of the assured capacity entitlements to Nantahala.

Based upon the evidence and testimony of record, the Commission makes the following

FINDINGS OF FACT

1. That Nantahala Power and Light Company is duly organized as a public utility company under the laws of North Carolina, holding a franchise from the Utilities Commission to furnish electric power in its service area in the Western part of North Carolina under rates and charges regulated by the Utilities Commission as provided in Chapter 62 of the General Statutes.

2. Nantahala supplies retail electric service to 24,000 customers located in Graham, Swain, Jackson, Macon and part of Cherokee Counties in North Carolina, serving the principal towns of Bryson City, Sylva, Franklin, Highlands, Andrews and Robbinsville.

3. That Nantahala had gross investment in utility plant in service for its North Carolina retail customers at the end of the test period for the 12 months ending December 31, 1971, at original cost of $40,189,697.

4. That the portion of said plant which has been consumed by previous use recovered by depreciation expense is $20,506,181.

5. That Nantahala received contributions in aid of construction of said plant from its customers of $69,605, to be deducted from Nantahala's investment in plant.

6. That the net investment at original cost of Nantahala plant in service under G.S. 62-133(b)(1), being original cost less contributions in aid of construction and less the portion consumed by previous use recovered by depreciation, is $19,613,911.

7. That the necessary cash working capital for Nantahala's retail plant is $253,996, based on 45 days of operation and maintenance expense, and the necessary materials and supplies is $130,318 from which the Commission deducts average tax accruals of $156,579, giving total working capital allowance of $234,395.

8. That the working capital balance of $234,395, when added to Nantahala's original cost of plant to include necessary working capital, results in a total net original cost of plant in service at the end of the test period of $19,848,306.

9. The above original cost of said plant does not include the construction work in progress in the amount of $84,859, which is excluded pursuant to State v. Morgan, 277 NC 255 (1970).

10. That Nantahala's revenue under present rates on an annualized basis for customers served at the end of test period for North Carolina retail service was $4,943,864. The reasonable operating expenses of Nantahala during the test period were $4,205,693, leaving net operating income of $738,171, plus annualization factor for growth in customers of $15,313, producing total net operating income for return of $753,484.

11. FAIR VALUE

A. Original Cost. G.S. 62-133 provides that the Commission shall ascertain the fair value of the plant in service at the end of the test period, considering original cost, replacement cost, and any other factors relevant to the present fair value of the property, and following the determination of fair value, fix a rate of return on the fair value of the property as will enable the utility by sound management to produce a fair profit (to Nantahala's stockholder), "considering changing economic conditions and other factors as they exist, to maintain its facilities and service 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 existing investors." G.S. 62-133

The first factor prescribed by the statute in determining fair value, the original cost (less depreciation) of

Nantahala's investment in plant is not disputed. There is no dispute as to the retail allocations of that portion of the plant devoted to North Carolina retail service. The original cost gross plant in service, as computed by both the Staff and Nantahala, was found to be $40,189,697. The depreciation allowance was audited by the Commission Staff, and the depreciation rates used do not require adjustments. Depreciation reserve allocated to North Carolina retail business amounted to $20,506,181 and after standard adjustments for the test period, resulted in a net electrical plant in service of $19,683,516.

The Commission finds the original cost depreciated of Nantahala's electrical plant in service subject to Commission jurisdiction to be $19,683,516.

B. Replacement Cost. Before entering upon a discussion of the fair value of Nantahala's properties, it is incumbent upon the Commission in light of the opinions of the Supreme Court and the Court of Appeals to consider, inter alia, the replacement cost of Nantahala's property inasmuch as the Company offered testimony regarding replacement cost. G.S. 62-133(b)(1) provides, in part, that replacement cost may be determined by trending such reasonable depreciated cost to current cost levels, or by any other reasonable method. The Commission interprets G.S. 62-133 (b) (1) to mean that "replacement cost" (or "reproduction cost new") envisions the reconstruction of utility plant in accordance with modern design and techniques and with the most up-to-date changes in the state of the art in power supply and distribution. On the other hand, "reproduction cost" (or trended original cost as presented by Company Witness Reilly) is founded upon the premise that, if destroyed, the plant would be rebuilt with inefficiencies and outmoded obsolete design included. Consequently, replacement cost envisions a higher level of evidence than that of reproduction costs alone. Accordingly, if the "replacement cost" study of the Company in this proceeding is to be accepted, it must be based upon reasonable methodology in order to be of compelling and sufficient evidence of replacement cost. Therefore, while the trending of plant on a "brick-for-brick" basis offers some evidence of replacement cost, the various major plant accounts must be considered individually in terms of advancements in the art and whether much more efficiently and economically designed plant would be constructed today instead of plant designed and installed up to 30 or more years earlier. The value of replacement cost is also influenced by the condition of the plant as judged from an adequacy of service standpoint. In this case, adequacy of service was not in issue and hence no deductions were made in the findings of replacement cost for reasons of inadequate service.

The Company Witness Reilly offered no evidence on the replacement value of the plant based on the utilization of modern designed, engineered, and constructed plant. Instead Mr. Reilly determined a trended original cost to the January

1, 1972, price level of the Company's utility plant in service at December 31, 1971, of $125,290,959. Mr. Reilly stated that he determined the accrued depreciation applicable to trended original cost in accordance with the straight line method applied on a group plant after estimating the average service life of each group. He estimated the accrued depreciation applicable to the trended original cost at $47,479,095, yielding a trended original cost, less depreciation, of the Company's electric plant in service at December 31, 1971, of $77,811,684.

The trended original cost study by Witness Reilly for the applicant has several deficiencies which make it unacceptable as a complete and reasonable method for determining replacement cost. Mr. Reilly testified that he determined by physical field inspection of the major components of the Company plant a percent allowance for age and condition, and did not consider the actual accrued depreciation on the Company's books. This percent allowance for age and condition was then multiplied by trended book cost to produce what Mr. Reilly called the "Trended Original Cost Less Depreciation" is higher than would have resulted had Mr. Reilly considered the depreciation expense actually recovered by the Company. Had Mr. Reilly used the actual depreciation revenue ratio accrued by the Company on its books in depreciating his "trended original cost", the results should have shown a trended original cost, depreciated, of $48,439,372 for Hydraulic Production Plant, $3,759,516 for Transmission Plant, $7,389,882 for Distribution Plant, $184,047 for General Plant, and $38,864 for Intangible Plant or a total trended original cost depreciated for electric plant in service subject to Commission jurisdiction of $59,811,680. The Commission finds that Mr. Reilly's methods and results are unreasonable in that the methods employed do not include an appropriate reserve depreciation ratio.

Furthermore, the witness, in computing the trended original cost of the properties and subtracting from the figure, thus derived, an allowance for no element of depreciation, save for physical wear and tear, has obviously left out the major factor of obsolescence. In regard to the obsolescence factor, Mr. Reilly stated that no private utilities are building hydroelectric plants at the present due to construction costs increasing more than 400 percent in the past 30 years. In view of this and the previously stated fact that the Commission considers the replacement cost more than just a "brick-for-brick" reproduction cost, the Commission finds insufficient evidence to determine a replacement cost of the hydraulic production plant different from the original cost depreciated of $13,187,805.

In view of Staff Witness Clapp's testimony regarding the adequacy of service and the reasonableness of engineering design and construction, the Commission finds the trended original cost depreciated, for transmission plant, $3,759,516; distribution plant, $7,389,882; general plant,

$184,047 and intangible plant, $38,864 to be acceptable estimates of the replacement costs of these respective plants.

The Commission finds the replacement cost of Nantahala's electrical plant in service subject to Commission jurisdiction to be $24,560,114.

C. Fair Value. That the Commission finds that the fair value of Nantahala's retail property used and useful in providing the service rendered to the public within North Carolina, 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, and considering the replacement cost of said property and considering the condition of the property and the outmoded design of some of the older plant, and considering that a substantial amount of said plant was added during the 12 months of the test period, i.e., $991,199, the Commission finds that the fair value of said plant should be derived from giving two-thirds weighting to original cost and one-third weighting to replacement cost, and the Commission finds that the fair value of the said plant devoted to retail service in North Carolina is $21,309,049.

12. That the actual investment currently consumed by actual depreciation during the test period was $914,289.

13. That the net operating income for return at the end of the test period was $753,484, and produced a ratio of net income to net investment plus working capital of 3.8% and a rate of return on equity per the company's books of 3.25%, a rate of return on a proformed capital structure of 2.83% and a rate of return on the fair value of Nantahala's property in service of 2.93% and such rate of return is found to be insufficient to provide a fair rate of return, and is found to be insufficient to provide a fair profit to Nantahala stockholders under G.S. 62-133(b) (4), considering changing economic conditions, and is insufficient to allow Nantahala to compete in the market for capital funds on terms which are reasonable and fair to its customers and its existing investors.

14. That the rate increases applied for produce a rate of return on the fair value of Nantahala property of 5.10%, which the Commission finds is sufficient, and not unjust or unreasonable, taking into consideration the corporate relationships between Nantahala and its parent corporation Alcoa, and its corporate structure of 100% equity financing, without any debt capital, with sound management, to produce a fair profit for Nantahala's sole stockholder Alcoa, to maintain its facilities and service in accordance with the standards set by the Commission for North Carolina retail service and to continue the present methods of operation and expansion on terms which are reasonable and which are fair to the company's customers and its sole stockholder under the corporate relationships as they exist; and said rate of

return will require rate increases of 15% in retail rates, plus the increase in reconnection charges, to produce $734,565 of additional gross revenue from North Carolina retail service and will provide a return on equity to the sole stockholder Alcoa of 4.96% on fair value equity, based on the present capital structure of 100% equity (plus interest free capital from deferred income taxes and deferred investment tax credits) and requires an increase of 15% over the rates of all metered retail customers in effect at the time of the hearing. The increment of fair value of plant in excess of original cost has been added to the capital structure for the above return. A capital structure of 100% equity is not reasonable for a public utility, but a proformed capital structure would not change the results in this case. Any future rate studies of Nantahala will include proformed reasonable capital structure, as Nantahala has the option of using the leverage of debt capital to improve its return on equity, and future returns will include adjustments for such capital structure.

CONCLUSIONS

The Application of Nantahala in this proceeding seeks a 15% across-the-board increase to produce $734,565 of additional annual revenue from its customers at the end of the test period on an annualized basis. Based upon the Findings of Fact above, the Commission finds and concludes that the total amount applied for is needed to produce a just and reasonable return for the company. The following tables, based upon the Findings of Fact, show the calculations for the $734,565 additional revenue found to be necessary, just and reasonable from the records in this proceeding:

NANTAHALA POWER AND LIGHT COMPANY
STATEMENT OF RETURN
NORTH CAROLINA RETAIL

	PRESENT RATES	INCREASE APPROVED	AFTER INCREASE
Gross Operating Revenue			
Sales of Electricity	$ 4,891,035	$ 733,655	$ 5,624,690
Other operating revenue	52,829	910	53,739
TOTAL OPERATING REVENUES	$ 4,943,864	$ 734,565	$ 5,678,429
Operating Revenue Deductions			
Purchased Power	411,308		411,308
Other O&M Expenses	2,031,960		2,031,960
Depreciation and Amortization	914,289		914,289
Taxes Other Than Income	643,763	44,043	687,806
Income Taxes-State	25,780	41,431	67,211
Income Taxes-Federal	218,614	311,564	530,178
Income Taxes-Deferred	(49,975)		(49,975)
Investment Tax Credit Normalization	15,268		15,268
Investment Tax Credit Amortization	(5,314)		(5,314)
TOTAL OPERATING REVENUE DEDUCTIONS	4,205,693	397,038	4,602,731
Net Operating Income	738,171	337,527	1,075,698
Add: Annualization Factor 1.031963	15,313		15,313
Net Operating Income for Return	753,484	337,527	1,091,011
Investment in Electric Plant in Service	40,189,697		40,189,697

NANTAHALA POWER AND LIGHT COMPANY
STATEMENT OF RETURN
NORTH CAROLINA RETAIL

Less Reserves and Contributions			
Accumulated Provision for Depreciation	20,506,181		20,506,181
Contributions in Aid of Construction	69,605		69,605
TOTAL RESERVES AND CONTRIBUTIONS	20,575,786		20,575,786
Net Investment in Electric Plant in Service	19,613,911		19,613,911
Plus Allowance for Working Capital			
Materials and Supplies	130,318		130,318
Cash	253,996		253,996
Less: Average Customer Deposits	0		0
Average Tax Accurals	156,579	65,166	221,745
TOTAL ALLOWANCE FOR WORKING CAPITAL	234,395	(65,166)	169,229
Net Investment in electric plant in Service plus Allowance for Working Capital	19,848,306		19,783,140
Ratio of Net Income to Net Investment plus working Capital	3.80%		5.51%

	Present Rates	Approved Rates
Fair Value Net Plant in Service	$21,309,049	$21,309,049
Less: Contributions in Aid of Construction	69,605	69,605
Fair Value of Plant in Service	21,239,444	21,239,444
Plus Allowance for Working Capital	234,395	169,229
Fair Value Rate Base	$21,473,839	$21,408,673
Rate of Return	3.51%	5.10%

N. C. RETAIL CAPITAL STRUCTURE, BOOK EQUITY

	Present			Pro Formed*		
	Amount	%	Interest	Amount	%	Interest
Long-Term Debt				8,267,783	41.13	506,816
Preferred Stock				1,503,233	7.48	92,148
Interest Free Capital	5,070,624	25.22		5,070,624	25.22	
Common Equity	15,032,332	74.28		5,261,316	26.17	
TOTAL CAPITALIZATION	20,102,956	100.00		20,102,956	100.00	598,964

*Not Including (55% Debt
Interest (35% Equity
Free Capital (10% Preferred Stock

STATEMENT OF RETURN ON EQUITY
NORTH CAROLINA RETAIL ONLY

	Present	Present Rates Fair Value Equity	Increase Granted Fair Value Equity
Net Operating Income for Return	494,400	494,400	831,927
Net Other Income	(5,770)	(5,770)	(5,770)
Amount Available for Fixed Charges	488,630	488,630	826,157
Interest Charges			
Preferred Dividends			
Amount Available for Common Equity			
Common Equity	15,032,332	16,657,865	16,657,865
Return on Common Equity	3.25%	2.93%	4.96%

The Commission concludes that the total 15% increase applied for is necessary to maintain Nantahala's facilities and service in accordance with the reasonable requirements of its customers in North Carolina, and to provide a fair rate of return to Nantahala on the fair value of its properties used and useful on its property in North Carolina.

That the earnings of Nantahala during the test period under the present rates are insufficient to provide adequate service and to compete in the market for additional capital for expansion of service, and to provide a fair return on the investment of its stockholder.

The Commission has authority over the New Fontana Agreement and Tapoco, Nantahala, Alcoa and their intercorporate structure as they relate to power supply, power availability, power costs, and consequently, rates of Nantahala Power and Light Company.

The Apportionment Agreement may be detrimental to Nantahala Power and Light Company. The Commission concludes that the Staff's alternative apportionment method in which the Staff redetermines the contributions of each system by considering Nantahala and Tapoco as a combined system is more equitable than the company method which initially considers them separately. However, due to the low rate of return requested by the Company, the relatively minor effect of the revised proportioning by the Staff and a lack of complete data in the evidence on record, the Commission temporarily accepts the Company method of apportionment. In any related future hearing, the Commission will order its staff to thoroughly investigate, examine and audit (1) the inter-corporate relationship between Alcoa, Tapoco and Nantahala; (2) all contracts in effect between Alcoa, Tapoca and Nantahala; and (3) the new Fontana Agreement and the apportionment of power thereunder, to and between Tapoco and Nantahala; and the Commission will carefully weigh and consider all of these matters and circumstances as they may affect or have any bearing upon Nantahala's operating cost and/or its rates charged or proposed to be charged to its customers.

Also with regard to power supply, the Commission takes notice of the fact that the new Fontana Agreement is scheduled to expire in 1982 and, therefore, is concerned that an adequate power supply be available in the future. In that connection, the Commission concludes that Nantahala should furnish power supply plans for future requirements up to 20 years, including any alternatives being considered as opposed to dependence on the Tennessee Valley Authority for generation supply.

PRICE COMMISSION

The Utilities Commission has adopted rules and regulations to recognize the criteria for price regulation under the

National Economic Stabilization Act as a certificated regulatory Commission under the rules of the Federal Price Commission, 6 Code of Federal Regulations, §300.16a, and has published its rules and regulations pursuant thereto in Chapter 13 of the Utility Commission's Rules and Regulations. The criteria and policies of the Price Commission, as adopted in said Chapter 13 of the Utility Commission's Rules, have been considered by the Commission, and the Commission finds as follows:

1. The increases approved in this proceeding are cost-justified and do not contain any future inflationary expectations. Each of the expenses found reasonable in this proceeding is an actual expense in effect at the time of the hearing in this proceeding and none are based on predictions of any future increases in inflation.

2. The increase is the minimum required to assure continued, adequate and safe service or to provide for necessary expansion to meet future requirements. The needed additions to the Nantahala plant require substantial additional capital investment, and without the increases approved here, the Commission finds that Nantahala could not compete in the capital market for necessary funds for such necessary improvements.

3. The increase will achieve the minimum rate of return needed to attract capital at reasonable cost and not to impair the credit of Nantahala. The evidence is clear that the 4.96% rate of return on fair value equity of Nantahala is essential under present economic conditions as a fair return on equity.

4. The increase does not reflect labor cost in excess of those allowed by the Federal Price Commission policies.

5. The increases take into account the expected and obtainable productivity gains as determined under Price Commission policies, by means of setting them off against wage increases, in that the Order does not allow for any increases in wages after the hearing on June 6, 1972, and the future wage increases in the annual wage contract, but not allowed as expenses for the test period, will absorb estimated productivity gains.

The method utilized by the Commission in this hearing of a firm test period, with no adjustment for future increases in expenses, and adjusting only for known changes in expenses and revenues has, in effect, measured the actual productivity gains which have been achieved by the company in the test period fixed in this proceeding.

6. The procedures of the Utilities Commission provide for reasonable opportunity for participation by all interested persons or their representatives in this proceeding, and due public notice was given of the hearing, and all parties who requested to be heard either as formal

parties of record or through presentation of public statements were admitted to the proceeding.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That effective with all service rendered on and after November 1, 1972, and all bills rendered on and after December 1, 1972, the applicant Nantahala Power and Light Company is authorized and permitted to put into effect increased rates and charges for an across-the-board flat rate increase on all metered customers of the company in the amount of 15% on all metered rates of the company, including all components of each rate schedule so that the total monthly bill to each metered customer will be a 15% increase, such increase in rate schedules to produce no more than the total annualized additional revenue as of the end of the test period of $733,655; and amended schedules of rates and charges will be filed with the Commission by November 1, 1972, reflecting such 15% increase.

2. That effective on and after November 1, 1972, Nantahala is authorized to increase the charge for restoration of service from $5.00 to $5.75, to produce $910.00 of additional annual revenue.

3. That the increase applied for in the deposit for temporary service, from $25.00 to $28.75, is hereby denied.

4. That Alcoa is ordered and directed to eliminate the bottom four blocks of the energy charge in Rate Schedule PL so that the bottom block of Rate Schedule PL would become 4.3 mills per kilowatt hour, and to strike out the bottom block of the Rate Schedule LC, and to substitute in its place a bottom block energy charge in Rate Schedule LC of 3.25 mills per kilowatt hour.

5. That Nantahala shall begin implementing the various programs presented in testimony of Witness Clapp on page 6 herein for continued adequate operations in its service area and shall report to the Commission on March 15, 1973, its progress in implementing said program.

6. That Nantahala shall furnish power supply plans for future requirements up to 20 years, including any alternatives being considered as opposed to dependence on the Tennessee Valley Authority for generation supply.

ISSUED BY ORDER OF THE COMMISSION.

This 30th day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-13, SUB 20

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Nantahala Power and	) ORDER
Light Company for Authority to	) CORRECTING
Adjust and Increase its Electric	) OMISSION OF
Rates and Charges	) UNMETERED RATES

BY THE COMMISSION: In the Order of the Commission entered herein on October 30, 1972, allowing the rate increases applied for, the Commission, in ordering paragraph No. 1 on page 26 of said Order, authorized the rates to go into effect on all metered customers of the applicant Nantahala Power and Light Company (hereinafter called "NANTAHALA"), without making any reference to Nantahala's two unmetered rates, Schedule YL, Yard Lighting Service, and Schedule SL, Street Lighting and Traffic Signal Rate.

The Application filed herein, and the evidence offered, supported a uniform 15% across-the-board flat rate increase on all customers. The approved increase in gross revenue of $734,565 includes revenue from a 15% increase on said unmetered Schedules YL and SL, along with all metered rate schedules. The Commission finding that the failure to include metered rates in the Order of October 30, 1972, allowing an increase of 15% on all metered customers without reference to unmetered customers was due to an inadvertence, and should be corrected,

IT IS, THEREFORE, ORDERED that the Commission Order entered herein on October 30, 1972, determining the rates of the applicant is hereby amended by striking out the phrase appearing in lines 2, 3, 4, 5, and 6 of ordering paragraph 1 on page 26 of said Order, as follows:

> ". . .the applicant Nantahala Power and Light Company is authorized and permitted to put into effect increased rates and charges for an across-the-board flat rate increase on all metered customers of the company in the amount of 15% on all metered rates of the company. . ."

and by inserting in lieu thereof the following:

> ". . .the applicant Nantahala Power and Light Company is authorized and permitted to put into effect increased rates and charges for an across-the-board flat rate increase on all metered and unmetered customers of the company in the amount of 15% on all metered and unmetered rates of the company,. . ."

ISSUED BY ORDER OF THE COMMISSION.

This 7th day of November, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-34, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Appalachian State University, t/a New River Light and Power Company, for an Adjustment in its Rates and Charges	)	ORDER APPROVING INCREASES IN RATES AND CHARGES

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on November 21, 1972

BEFORE: Chairman Marvin R. Wooten, Presiding, Commissioners John W. McDevitt, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

John H. Bingham
Attorney at Law
P. O. Box 375, Boone, North Carolina 28607

For the Commission Staff:

Maurice W. Horne
Assistant Commission Attorney
Ruffin Building
Raleigh, North Carolina 27602

No Protestants.

BY THE COMMISSION: Pursuant to the provisions of G.S. 116-45(5)(c) on May 24, 1972, Appalachian State University, t/a New River Light and Power Company (hereinafter referred to as "New River"), at 227 East King Street, Boone, North Carolina 28607, filed an application seeking authority to increase its electric rates and charges to residential and commercial customers in its service area to recover increases in the wholesale price of electric power purchased from its supplier, Blue Ridge Electric Membership Corporation (hereinafter referred to as "Blue Ridge"). Blue Ridge purchases its electric power requirements from Duke Power Company, including power for resale to New River.

In accordance with a filing with the Federal Power Commission (Docket No. E-7720), Duke Power Company has

increased its rates to Blue Ridge through the application of a fuel adjustment clause in Duke Power Company's charges approved conditionally by the Federal Power Commission which is presently subject to refund provisions in the event same is not finally approved.

The application of New River herein seeks to increase its rates and charges in the form of a monthly purchased power adjustment surcharge on each customer billing computed according to individual customer usage of energy on a kilowatt-hour basis. The additional cost per kilowatt-hour is proposed to be equal to the increased cost of wholesale energy per kilowatt-hour from New River's supplier, Blue Ridge, adjusted to include the cost of energy losses in New River's electrical distribution system.

On June 27, 1972, the Commission authorized New River to increase its rates in accordance with the increases in wholesale energy cost to it pursuant to New River's request, treated as an undertaking, thereby making such increases subject to refund if the same were not finally approved by the Commission. The Commission's Order of June 27, 1972, further set this matter for investigation and hearing on November 21, 1972, and required New River to publish the notice of hearing to the public attached to the order.

On November 2, 1972, the Commission entered an Order extending time for filing of Commission Staff testimony.

The matter was called for hearing at the time and place hereinabove captioned. No one appeared at the hearing to protest the application.

SUMMARY OF EVIDENCE

Mr. Ned R. Trivette, Vice Chancellor for Business Affairs of Appalachian State University, testified in support of the application. He testified with respect to the historical beginning of electric power service by New River in 1915 and indicated that the profits of New River go to an endowment fund for the purpose of providing scholarships for students in the area.

Mr. Grant Ayers, Director of Utility Support Services at Appalachian State University, testified to his responsibility as director of the overall operations of New River, and indicated that he anticipated the cost of capital improvements for New River over the next ten years to be approximately $890,553 based upon the anticipated customer growth referred to in the testimony of Mr. Lisk. He further testified that Blue Ridge bills New River for its power purchases on a monthly basis. He stated that no capital credits have been issued from Blue Ridge to New River since 1967 which was a payment on 1957 credits.

Mr. Ray D. Cohn, Vice President of Southeastern Consulting Engineers, Inc., testified that his firm had been retained

as a consultant for New River in matters concerning its electric distribution system since 1961. He testified that the proposed "loss adder" would be computed by dividing the kilowatt-hours sold (which would be determined by meter readings) by the kilowatt-hours purchased (representing the amount purchased by New River from Blue Ridge) and that under the proposal in this case, the losses would be computed in determining the cost to New River's customers which would be occasioned by wholesale increases from Blue Ridge. He testified that New River had requested special consideration in the system method of determining loss factors assessed by Blue Ridge, but that such consideration was denied for the reason that Blue Ridge indicated it could not charge separate losses to each of its customers and that the loss factor is, therefore, the same throughout its system. He indicated that the capital credits or "patronage dividends" represent amounts paid for service to Blue Ridge in excess of its operating costs and expenses for providing service and such amounts are furnished as capital to Blue Ridge. He further testified such capital credits are credited to the account of each patron of Blue Ridge and each patron is notified each year of the amount of the credit but that no capital may be retired by Blue Ridge unless after the proposed retirement, Blue Ridge's capital shall equal at least 40% of its total assets. He further stated that Blue Ridge had indicated to New River that such 40% equity condition would occur in approximately ten years. Mr. Cohn testified that New River has no control over such capital credits and no firm assurance that they will ever be converted into cash income. With respect to pricing for electric service, Mr. Cohn testified that there is approximately a 31% markup because Blue Ridge bills New River essentially as if it were an industrial customer.

Mr. J. Carroll Brookshire, Director of Audits and Systems for Appalachian State University, testified regarding his audit of the books and records of New River. His exhibits reflect various rates of return including and excluding adjustments for capital credits. He stated that the capital credits were recorded on the books of New River as a reduction in the cost of purchased power with an increase in the investment in Blue Ridge. He stated that he had computed the increases from Blue Ridge by using a billing period of August 15, 1972, to September 15, 1972, arriving at an amount of $6,869.09, and then multiplying such amount by 12 in order to relate the increased cost of purchased power to the test period in this proceeding. He further indicated, however, that he did not regard this month's billing as an average month inasmuch as the subsequent billing from September 15 to October 15, 1972, resulted in increases of $957.53 over the previous month. He indicated that the books and records of New River are sufficient to accommodate refunds in the event the Federal Power Commission were to disallow the fuel clause application of Duke Power and further indicated that New River could report monthly the increases in additional wholesale cost to it.

Mr. Richard N. Lisk, Superintendent of New River, testified that New River anticipates a continued growth over the next ten-year period of approximately 12% to 15% per year in the number of its customers.

The Commission Staff offered evidence through the testimony of Paul B. Goforth, Staff Accountant, and George M. Duckwall, Utilities Engineer.

Mr. Goforth testified regarding the nature and extent of the Commission Staff's audit based upon the 12-month period ending June 30, 1972. With respect to Schedule 1, Columns 3 and 5, representing accounting adjustments before and after the increases in purchased power, Mr. Goforth testified that as long as the increases in purchased power are offset by increases in revenues, the rate of return reflected in Columns 3 and 5 would remain essentially the same.

Mr. Duckwall testified that the fuel cost adjustment allowed by the Federal Power Commission to Duke Power Company varies from month to month depending upon Duke's cost of fossil fuel, BTU's of fossil fuel burned and total system KWH sales. He stated it was expected that the fuel adjustment will continue to decrease as Duke generates more energy by nuclear power, thereby lessening the impact of fossil fuel and reducing the fuel adjustment. He testified that any benefits derived from Duke's nuclear generation should be passed on to New River's customers and that same could best be done by the use of a monthly fuel cost adjustment applied to each customer's KWH consumption.

At the conclusion of the hearing, counsel for the parties waived the filing of briefs and the matter was taken under advisement by the Commission.

Based upon the entire record of this proceeding, and with judicial notice taken of the last rate proceeding by New River in Docket No. E-34, Sub 2, the Commission makes the following

FINDINGS OF FACT

(1) New River Light and Power Company is a business enterprise of Appalachian State University and is subject to the jurisdiction of this Commission for the purpose of fixing its rates and charges pursuant to the provisions of G.S. 116-46(5) (c).

(2) New River has published appropriate notice of its application to its customers.

(3) New River has experienced variable increases in wholesale costs of energy purchased from its supplier, Blue Ridge Electric Membership Corporation, following wholesale increases in the cost of Blue Ridge's energy purchases from Duke Power Company pursuant to a fuel adjustment clause approved by the Federal Power Commission, which have the

effect of increasing New River's operating expenses on a variable month-to-month basis. The cost of purchased power was increased on August 15 to September 15, 1972, by approximately $6,869, and from September 15 to October 15, 1972, by approximately $7,827.

(4) The figures reflected on the audits of New River and the Commission Staff reflect only minor differences in the treatment of the annualizing factor for customer growth during the test period and the treatment of pole accounts and reconnect fees. Both audits reflect separate consideration and treatment of capital credits or "patronage dividends" as adjustments against the cost of purchased power and without such adjustments.

(5) The fuel adjustment clause authorized by the Federal Power Commission will result in Duke's charges to Blue Ridge and in turn, Blue Ridge's charges to New River, varying on a month-to-month basis depending on Duke's cost of fuel. It is to be reasonably expected that the fuel adjustment will continue to decrease in the future as Duke Power Company generates more energy by nuclear power.

(6) To require New River to absorb the variable increases in wholesale energy costs imposed upon it by its supplier, Blue Ridge, would result in New River being required to operate at a rate of return that would be less than just, reasonable or sufficient for New River's utility operations. Inasmuch as New River purchases all the power it sells from Blue Ridge, to allow revenues sufficient to offset the increased cost of purchased power would not materially affect the rate of return but would essentially stabilize New River's utility operations.

(7) New River has a net investment in its utility plant, including an allowance for working capital, of approximately $1,879,648.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

The Commission concludes that to require New River to absorb the increases in wholesale energy costs imposed upon it by its supplier, Blue Ridge, would result in requiring New River to operate at a rate of return that is less than just and reasonable.

The Commission is not herein establishing or approving a rate of return for New River. The Commission Staff's testimony in this case indicates that as Duke Power Company generates more energy by nuclear power (with some units to come on the line in 1973) the impact of the cost of fossil fuel to Duke is lessened, thereby reducing the fuel adjustment over a period of time.

In the event the Commission were to attempt to set a rate of return to cover the increases in wholesale cost to New River, there would be a continuing and predictable erosion of such rate of return, beyond that sometimes experienced in usual utility operations, inasmuch as the cost of wholesale power to New River varies on a month-to-month basis. Therefore, a fixed rate of return would eventually be adverse to New River's customers in the future. A rate of return fixed too high in this proceeding would result in an adverse impact on New River's present customers. New River does not have recourse to management control over methods and economics involving the production of energy and, therefore, is unable to implement decreases in its energy costs by its own action. New River must pay the wholesale increases passed on to it by Blue Ridge since New River does not generate its own energy. Accordingly, weighing the interest of New River and its customers, the Commission concludes that the most reasonable disposition of this proceeding is to authorize New River to file a surcharge tariff for charges on each customer's billing computed according to each customer's usage of energy on a kilowatt-hour basis with adjustments to include the cost of energy losses in New River's electrical distribution system. The Commission concludes that such authorization is essential to permit New River to maintain its facilities and services in accordance with the reasonable requirements of its customers and to reasonably meet its income requirements and to maintain and improve service to its customers.

In the event that the Federal Power Commission does not finally approve the application of Duke Power Company for a fuel cost adjustment, the Commission is of the opinion that any refunds received by New River should be passed on to its customers by reductions in its charges at the time of the occurrence of any such refunds.

The Commission is of the opinion that New River and Blue Ridge should enter upon discussions as to the possibility of Blue Ridge's billing New River in some manner other than that of an industrial customer.

IT IS, THEREFORE, ORDERED as follows:

(1) That the application of New River to increase its rates and charges in the form of a surcharge for all classes of service as filed by New River in this docket, be, and the same hereby is, approved as being just and reasonable.

(2) That approval of New River's surcharge has the effect of satisfying the conditions of the undertaking filed by New River, and therefore, no refunds will be necessary under the provisions of the undertaking unless a reduction in charges for wholesale energy occurs as a result of the Federal Power Commission's final decision in FPC Docket No. E-7720 relating to Duke Power Company's fuel adjustment clause and Blue Ridge, subsequently, reduces its charges to New River for wholesale energy. In such case, refunds shall be made

as required by G.S. 62-135(c) and New River shall immediately notify the Commission of any such reductions. In the event the Federal Power Commission disallows Duke Power Company's application New River shall immediately begin charging its customers the base rate as heretofore established in Docket No. E-34, Sub 2, and shall immediately notify the Commission.

(3) That New River shall immediately file an appropriate surcharge tariff.

(4) That New River is herewith required to commence filing on a monthly basis a verified written report of wholesale increases accompanied by an explanation of the manner by which New River has computed its energy losses resulting from its electrical distribution system along with the details of such computation. The Report shall state the amount of increases in New River's retail charges to its customers.

ISSUED BY ORDER OF THE COMMISSION.

This 12th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-19, SUB 15

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Roselle Lighting Company, Inc., for Increase in Rates and Charges	)	ORDER APPROVING INCREASES IN RATES AND CHARGES

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on November 22, 1972

BEFORE: Chairman Marvin R. Wooten, Presiding, Commissioners John W. McDevitt, Miles M. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

W. T. Shuford
Attorney at Law
205 Wachovia Bank Bldg.
Salisbury, North Carolina 28144

For the Commission Staff:

Maurice W. Horne
Assistant Commission Attorney
Ruffin Building
Raleigh, North Carolina 27602

No Protestants.

BY THE COMMISSION: On June 23, 1972, Roselle Lighting Company, Inc. (hereinafter referred to as "Roselle"), filed an application with the Commission seeking authority to increase its electric rates and charges to residential and commercial customers in its service area through the application of a surcharge to recover increases in the wholesale price of electric power purchased from its supplier, the Town of Landis, who in turn received the same increase from Duke Power Company, its supplier, in accordance with a filing before the Federal Power Commission by Duke Power Company (Docket No. E-7720). Duke Power Company's increased wholesale charges have been approved conditionally by the Federal Power Commission through the application of a fuel adjustment clause and are presently subject to refund provisions in the event the application is not finally approved.

Through its application herein, Roselle seeks to increase its rates in the form of a monthly purchased power adjustment surcharge on each customer billing computed according to individual customer usage of energy on a kilowatt-hour basis, adjusted to include the cost of energy losses in Roselle's electrical distribution system.

On July 10, 1972, the Commission authorized Roselle to increase its rates in accordance with the increases in wholesale energy costs to it pursuant to Roselle's request, treated as an undertaking, thereby making such increases subject to refund if the same were not finally approved by the Commission. The Commission's Order of July 10, 1972, further set this matter for investigation and hearing on November 22, 1972, and required Roselle to publish the notice to the public attached to the Order.

The matter was called for hearing at the time and place hereinabove captioned. No one appeared at the hearing to protest the application.

SUMMARY OF EVIDENCE

Mr. Robert E. Alexander, Secretary and General Manager of Roselle, testified generally with respect to the operations of Roselle and with respect to the quality of Roselle's service. He testified that Roselle did not pay dividends for the year 1971 and did not pay any director's fees for the year 1971 for the reason that Roselle did not have sufficient working capital, although the company had done so in prior years.

Mr. Chester D. Zum Brunnen, a Certified Public Accountant, testified that he has been doing accounting work for Roselle since 1948. He testified with respect to the audit of Roselle's books and records filed with his prepared testimony. He stated that he had computed the increased cost of purchased power based upon a bill dated October 20, 1972, amounting to $8,087.81. He stated that his computation reflected consideration of Roselle's line loss factor and the gross receipts tax.

The Commission Staff ordered evidence through the testimony of Danny B. Jones, Staff Accountant, and George M. Duckwall, Utilities Engineer.

Mr. Jones testified regarding the nature and extent of the Commission Staff's audit based upon the 12-month period ending December 31, 1971. With respect to Schedule 1, Columns 3 and 5, representing accounting adjustments before and after the increases in purchased power, Mr. Jones testified that as long as the increases in purchased power are offset by increases in revenue, the rate of return reflected in Columns 3 and 5 would remain essentially the same.

Mr. Duckwall testified that the fuel cost adjustment allowed by the Federal Power Commission to Duke Power Company varies from month to month depending upon Duke's cost of fossil fuel, BTU's of fossil fuel burned, and total system KWH sales. He stated that it was expected that the fuel adjustment will continue to decrease as Duke generates more energy by nuclear power, thereby lessening the impact of fossil fuel and reducing the fuel adjustment. He testified that any benefits derived from Duke's nuclear generation should be passed on to Roselle's customers and that same could best be done by the use of a monthly fuel cost adjustment applied to each customer's KWH consumption.

At the conclusion of the hearing, counsel for the parties waived the filing of briefs and the matter was taken under advisement by the Commission.

Based upon the entire record of this proceeding and with judicial notice taken of the last rate proceeding by Roselle in Docket No. E-19, Sub 13, the Commission makes the following

FINDINGS OF FACT

(1) Roselle Lighting Company, Inc., is a duly franchised and operating public utility under the laws of the State of North Carolina and is subject to jurisdiction of this Commission for the purpose of fixing rates and charges.

(2) Roselle has published appropriate notice of its application to its customers.

(3) Roselle has experienced variable increases in wholesale costs of energy purchased from its supplier, the Town of Landis, following wholesale increases in the cost of the Town of Landis' energy purchases from Duke Power Company pursuant to a fuel adjustment clause approved by the Federal Power Commission, which has the effect of increasing Roselle's operating expenses on a variable month-to-month basis.

(4) The figures reflected on the audits by Roselle and the Commission Staff reflect only minor differences in the amounts projected for increases of purchased power and the Staff audit reflects adjustments for rate case expenses and materials and supplies.

(5) The fuel adjustment clause authorized by the Federal Power Commission to Duke Power Company will result in Duke's charges to the Town of Landis and in turn, the Town of Landis' charges to Roselle varying on a month-to-month basis depending on Duke's cost of fuel. It is to be reasonably expected that the fuel adjustment will continue to decrease in the future as Duke Power Company generates more energy by nuclear power.

(6) To require Roselle to absorb the variable increases in the wholesale energy costs imposed upon it by its supplier would result in Roselle being required to operate at a rate of return that would be less than just and reasonable, or sufficient for Roselle's operations. Inasmuch as Roselle purchases all of the power it sells from the Town of Landis, to allow revenue sufficient to offset the increased cost of purchased power would not materially affect the rate of return but would essentially stabilize Roselle's utility operations.

(7) Roselle has a net investment in its utility plant, including an allowance for working capital, of approximately $187,276.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

The Commission concludes that to require Roselle to absorb the increases in wholesale energy costs imposed upon it by its supplier, the Town of Landis, would result in requiring Roselle to operate at a rate of return that is less than just and reasonable.

The Commission is not herein establishing or approving a rate of return for Roselle. The Commission Staff's testimony in this case indicates that as Duke Power Company generates more energy by nuclear power (with some units to come on the line in 1973) the impact of the cost of fossil fuel to Duke is lessened, thereby reducing the fuel adjustment over a period of time.

In the event the Commission were to attempt to set a rate of return to cover the increases in wholesale cost to Roselle, there would be a continuing and predictable erosion of such rate of return, beyond that sometimes experienced in usual utility operations, inasmuch as the cost of wholesale power to Roselle varies on a month-to-month basis. Therefore, a fixed rate of return would eventually be adverse to Roselle's customers in the future. A rate of return fixed too high in this proceeding would result in an adverse impact on Roselle's present customers. Roselle does not have recourse to management control over methods and economics involving the production of energy and, therefore, is unable to implement decreases in its energy costs by its own action. Roselle must pay the wholesale increases passed on to it by the Town of Landis since Roselle does not generate its own energy. Accordingly, weighing the interest of Roselle and its customers, the most reasonable disposition of this proceeding is to authorize Roselle to file a surcharge tariff for charges on each customer's billing computed according to each customer's usage of energy on a kilowatt-hour basis, with adjustments to include the cost of energy losses in Roselle's electrical distribution system and with consideration given to the gross receipts tax. The Commission concludes that such authorization is essential to permit Roselle to maintain its facilities and services in accordance with the reasonable requirements of its customers and to reasonably meet its income requirements and to maintain and improve service to its customers.

In the event the Federal Power Commission does not finally approve the application of Duke Power Company for a fuel cost adjustment, the Commission is of the opinion that any refunds received by Roselle should be passed on to its customers by reductions in its charges at the time of the occurrence of any such refunds.

IT IS, THEREFORE, ORDERED as follows:

(1) That the application of Roselle to increase its rates and charges in the form of a surcharge for all classes of service be, and the same hereby is, approved as being just and reasonable.

(2) That approval of Roselle's surcharge has the effect of satisfying the conditions of the undertaking filed by Roselle and therefore, no refunds will be necessary under the provisions of the undertaking unless a reduction in the charges for wholesale energy occurs as a result of the Federal Power Commission's final decision in FPC Docket No. E-7720 relating to Duke Power Company's fuel adjustment clause, and the Town of Landis subsequently reduces its charges to Roselle for wholesale energy. In such case, refunds shall be made as required by G.S. 62-135(c) and Roselle shall immediately notify the Commission of any such reductions. In the event the Federal Power Commission disallows Duke Power Company's application, Roselle shall

immediately begin charging its customers the base rate as heretofore established in Docket No. E-19, Sub 13, and shall immediately notify the Commission.

(3) That Roselle shall immediately file an appropriate surcharge tariff.

(4) That Roselle is herewith required to commence filing on a monthly basis a verified written report of wholesale increases accompanied by an explanation of the manner by which Roselle has computed its energy losses resulting from its electrical distribution system, along with the details of such computation as well as the treatment given to the gross receipts tax in the computation of its retail charges. The report shall state the amount of increases in Roselle's retail charges to its customers.

ISSUED BY ORDER OF THE COMMISSION.

This 11th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 126

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Virginia Electric and Power Company for Authority to Adjust its Electric Rates and Charges.) ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on January 11, 1972, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners Marvin R. Wooten, Miles H. Rhyne and Hugh A. Wells.

APPEARANCES:

For the Applicant:

R. C. Howison, Jr.
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina

Guy T. Tripp, III
Hunton, Williams, Gay & Gibson
Attorneys at Law
P. O. Box 1535, Richmond, Virginia 23212

Evans B. Brasfield
Hunton, Williams, Gay & Gibson
Attorneys at Law
P. O. Box 1535, Richmond, Virginia 23212

For the Intervenors:

Louis W. Payne, Jr.
Attorney General's Office
Room 124, Ruffin Building
Raleigh, North Carolina
For: The Using and Consuming Public
(Intervention was withdrawn during the course of the hearing with Commission approval)

For the Commission Staff:

Maurice W. Horne
Assistant Commission Attorney
North Carolina Utilities Commission
Raleigh, North Carolina

WOOTEN, COMMISSIONER: This proceeding was instituted upon application by the Virginia Electric and Power Company (hereinafter referred to as "VEPCO") on July 15, 1971, wherein authority was sought to increase VEPCO's electric rates and charges for service rendered to its retail electric customers within the State of North Carolina, said requested increase being in the amount of 1.28 mills per kilowatt hour, to become effective on August 1, 1971. The application was filed in two parts, with Part I thereof seeking the rate increase requested on a permanent basis and Part II of said filing requesting an emergency increase on an interim basis pending full and complete hearing and final determination of the matter.

By Order of the Commission dated August 2, 1971, the interim rate increase was set for hearing on September 2, 1971, and the Commission subsequently on August 31, 1971, continued the said interim rate increase hearing in view of the Presidential Price Freeze and scheduled oral argument on the subject on September 2, 1971. By Order issued on November 1, 1971, the Commission consolidated Parts I and II of this application for hearing on January 11, 1972, at 10:00 A.M., in the Commission's Hearing Room, having previously by its suspension order of August 2, 1971, set the hearing on Part I of this application for permanent rate increase on said date.

Notice of intervention was filed by the Attorney General on December 22, 1971, and Order recognizing said intervention was issued by the Commission on January 6, 1972.

Upon the call of this matter for hearing, the applicant presented its case through Witnesses Stanley Ragone, Bruce C. Netschert, Alvis M. Clement and Charles F. Phillips.

Additionally, the applicant presented testimony through exhibits under stipulation entered into by and between the parties hereto and with the permission of the Commission. After the testimony of the first witness, Stanley Ragone, the Attorney General requested permission and authority to withdraw from the case in view of the fact that it appeared that the only thing which the applicant was seeking through this rate case was the recovery of the increased costs of fuel to it, which increased costs were occasioned subsequent to the test period used by the company and the Commission in its last general rate case in Docket No. E-22, Sub 118. Without objection the Commission granted the request of the Attorney General to withdraw from this case.

Following the case for the applicant, the Commission presented one witness, Andrew W. Williams, Staff Nuclear Engineer, and additional evidence and testimony by way of stipulation as set out in the full record in this case. Both the applicant and the Commission Staff presented certain evidence by way of exhibits identified and introduced.

The Commission's Order of Suspension in this case dated August 2, 1971, required that appropriate public notice be given and that affidavits with reference thereto be filed in this case. The affidavits regarding appropriate publication required by the Commission's Order were filed by the applicant as its first order of evidence and the same are a matter of record in this case.

The applicant in this case requested authority to increase its rates and charges to all of its retail customers in the amount of 1.28 mills per kilowatt hour as a surcharge, in order to partially recover increased cost of fuel incurred by it subsequent to its last general rate case.

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

FINDINGS OF FACT

1. That Virginia Electric and Power Company (VEPCO) is duly organized as a public utility company under the laws of the State of Virginia and is authorized to do business in North Carolina, by territorial assignment certificates from this Commission in the State of North Carolina, under rates and service regulated by this Commission under Chapter 62 of the General Statutes of North Carolina.

2. That on June 30, 1970, the net original cost of VEPCO's utility property in service, subject to the jurisdiction of this Commission, was not less than $65,977,180, and subsequent thereto, said VEPCO has added additional plant in service.

3. That on June 30, 1970, the fair value of VEPCO's utility property in service, subject to the jurisdiction of

this Commission, exceeded the net original cost of such property and is deemed to be not less than $70,000,000, and when applying a net operating income in the amount of $3,669,417, a rate of return on this fair value rate base is 5.242%.

4. That had the proposed surcharge been in effect during the 12-month period ending June 30, 1970 (end of test period), VEPCO's rate of return on net original cost of utility property in North Carolina under the jurisdiction of this Commission would have been 6.52%.

5. That VEPCO's return on common equity at June 30, 1970 (end of test period), was 7.13% and that said return on common equity will increase to 9.28% after giving effect to the proposed surcharge herein sought.

6. That the rates of return on common equity, net original cost and fair value rate base, resulting from the application of the surcharge herein requested, during the test period is less than the rates of return thereon heretofore established as just and reasonable by this Commission in its Order dated April 29, 1971, in Docket No. E-22, Sub 118.

7. That the rate of return resulting from the application of the proposed surcharge produces a return on VEPCO's investment on property devoted to use of retail customers under the jurisdiction of this Commission which is not unjust or unreasonable to either the applicant or its ratepayers.

8. That VEPCO has sought to minimize its overall costs of fuel by the appropriate use of petroleum refinery by-products, coal mine-mouth generation, volume and multi-car freight rates, and nuclear generation; however, during the 12 months ending June 30, 1970 (the test year), the average cost of fuel consumed was 30.41 cents per million B.T.U.s, or 3.12 mills per kilowatt hour generated, whereas, during the five months ending May 31, 1971, the average cost of fuel consumed increased to 42.35 cents per million B.T.U.s, or 4.39 mills per kilowatt hour generated. The increase here applied for is $1,365,487 for the test year, yet the annual revenue requirement to offset the increase in fuel costs and to compensate for the applicable North Carolina gross receipts taxes of $91,705 is $1,528,410.

9. That the methodology used by the company and the staff in this case differs in some particulars; however, we do not find it necessary for the purpose of this case to differentiate and choose as between such methods and results in view of the fact that regardless of the methodology used, the evidence in this case clearly shows the need for the rate relief requested.

CONCLUSIONS

G.S. 62-133, among other things, provides: that in fixing rates for any public utility subject to provisions of this chapter, the Commission shall fix such rates fair to the public utilities and consumer. 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).

The Commission concludes that the issues presented by Part II of the application herein, which is the applicant's request for interim emergency relief, become moot upon the issuance of this Order, and, therefore, makes no further disposition of the same.

The proposed surcharge in this proceeding will produce an additional $1,365,487 in gross revenue, $635,051 of which the company should, after revenue deductions, realize as additional net operating income (including customer growth factor). After adding this amount to the present net

operating income and then relating the total net operating income for return to the net investment at the end of the test period, plus appropriate allowance for working capital ($65,977,180), the company should realize a rate of return on investment in property in the State of North Carolina applicable to North Carolina retail customers of 6.52%. The Commission finds and concludes that the amount applied for is not unjust and unreasonable, is not excessive and is not unfair to the company's customers in North Carolina, and will not more than offset the increased cost of fuel experienced by the company as of May 31, 1971.

The Commission concludes that the amount of additional revenue applied for in the proposed surcharge is necessary to provide a reasonable rate of return on either the depreciated original cost or fair value of VEPCO's property. It further concludes that the ability of VEPCO to provide service in its area to meet demands for electric energy, and in consideration of the applicable law requires that VEPCO maintain earnings at a level to attract capital for such programs. The increased costs for such operations experienced subsequent to the test period in connection with the cost of fuel are clearly shown in this record.

We finally conclude that the surcharge proposed in the application herein should be approved for application to all retail sales of electric energy by the applicant on and after the date of this Order, and that the company should immediately file revised tariffs in accord therewith.

The Utilities Commission is advertent to public statements of guidelines and policies of the Price Commission and concludes that the increase rate procedure and the evidence in this proceeding, and the consideration thereof by the Commission, fixes the rates of VEPCO in this proceeding on the basis that they will provide no more than the minimum return necessary to assure continued and adequate service. The return which would have actually been earned by VEPCO in the light of the increased cost of fuel, if continued without the rate increase approved here, would not be adequate to assure continued and adequate service. This Commission finds and so certifies that the increases are consistent with the criteria established by the Price Commission. The documentation for such findings is set out fully in the Findings of Fact and Conclusions herein, based on evidence of record of the public hearing herein.

The rate increase approved here is authorized solely on the basis that it is necessary in order to assure continued and adequate service to the public in VEPCO's service area, considering the increased cost of service, the increased expenses of VEPCO, and the increased cost of fuel, and the purpose of the Economic Stabilization Act of 1970 as amended.

This Order is entered subject to the compliance of VEPCO with all the requirements of the Price Commission and notice

of such increase and subject to such other rules and regulations of the Price Commission as may be applicable to such increases.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Rider A Surcharge attached to the application in this proceeding by VEPCO be, and the same is, hereby approved.

2. That the Rider A Surcharge herein approved is authorized to be applied to all electric sales to its North Carolina retail customers on and after the date of this Order.

3. That VEPCO shall immediately file with this Commission its revised Rider A Surcharge approved, to become a part of its filed tariffs.

4. That a copy of this Order be transmitted to the company and each of the Attorneys of record in this proceeding.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Commissioner John W. McDevitt did not participate in the hearing, consideration and decision in this case.

DOCKET NO. E-2, SUB 208

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Carolina Power & Light Company - Authority to Issue and Sell $100,000,000 Principal Amount of First Mortgage Bonds, ____% Series Due 2002	)	ORDER GRANTING AUTHORITY TO ISSUE AND SELL SECURITIES

This cause comes before the Commission upon Application of Carolina Power & Light Company (Company), filed under date of March 20, 1972, through its Counsel, Sherwood H. Smith, Jr., and Thos. E. Capps, wherein authority of the Commission is sought as follows:

To issue and sell $100,000,000 principal amount of First Mortgage Bonds, ____% Series due 2002.

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. The Company's capital stock outstanding at January 31, 1972, consists of common stock with a stated value of $280,788,989 and preferred stock having a stated value of $124,375,900.

3. The Company's existing long-term debt at January 31, 1972, amounted to $534,030,000 in First Mortgage Bonds and $122,633 in Promissory Notes. The First Mortgage Bonds were issued and pursuant to an Indenture dated as of May 1, 1940, and duly executed by the Company to Irving Trust Company of New York, as Corporate Trustee, and amended by fifteen Supplemental Indentures.

4. The Company proposes to issue and sell $100,000,000 principal amount of First Mortgage Bonds, ____% Series due 2002, to be secured under a Sixteenth Supplemental Indenture to the Mortgage and Deed of Trust dated as of May 1, 1940, substantially in the form of the draft thereof attached to the Application and identified as Exhibit A.

5. Construction expenditures for additional electric plant totaled $56,906,623 in the period December 1, 1971, through January 31, 1972. The net proceeds from the proposed sale of First Mortgage Bonds will be applied to the reduction of short-term loans incurred for corporate purposes, primarily for the construction of additional electric plant facilities.

6. The Company proposes on or about April 19, 1972, to publicly invite sealed, written proposals for the purchase of the First Mortgage Bonds at competitive bidding on terms and conditions set forth in Exhibit C attached to the Application. The bids submitted will be opened on or about April 24, 1972, and the Company intends to accept the bid providing it with the lowest annual cost of money for the First Mortgage Bonds but will reserve the right to reject all bids.

7. The Company proposes to enter into a Purchase Agreement with the bidder or group of bidders whose bid, as to the interest rate to be borne by the First Mortgage Bonds and the price to be paid for the Bonds will provide the lowest annual cost of money. The Purchase Agreement will be in the form or substantially in the form as Exhibit D attached to the Application.

8. The expenses estimated to be incurred in the sale of the First Mortgage Bonds will approximate $137,000.

CONCLUSIONS

From a review and study of the Application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so finds that the transactions herein proposed are:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public as a utility and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED, That Carolina Power & Light Company, be, and it is hereby authorized, empowered and permitted under the terms and conditions set forth in the Application:

1. To issue and sell at competitive bidding a maximum of $100,000,000 principal amount of First Mortgage Bonds, ____% Series due 2002;

2. To sell the securities to the bidder or group of bidders submitting the proposal which will provide the Company with the lowest annual cost of money;

3. To create, execute and deliver a Sixteenth Supplemental Indenture to be dated as of May 1, 1972, to the Company's Mortgage and Deed of Trust, as supplemented, conveying all or substantially all of the Company's mortgageable properties and franchises acquired since the execution and delivery of the Fifteenth Supplemental Indenture to the Mortgage and Deed of Trust, and pledging the faith, credit and property of the Company to secure payment of the Bonds;

4. To use and apply the net proceeds from the issuance and sale of the securities described herein to the purposes set forth in the Application;

5. To file with this Commission, when available in final form, one copy each of the Sixteenth Supplemental Indenture and Purchase Agreement; and

6. To file with this Commission, in duplicate, a verified report of actions taken and transactions consummated (including the interest rate to be borne by the

Bonds, the price received by the Company, and the expenses associated with the sale) pursuant to the authority granted herein within a period of thirty (30) days following the transactions authorized herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of April, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 215

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Carolina Power & Light Company - Authority to Issue and Sell Term Note	))))	ORDER GRANTING AUTHORITY TO ISSUE AND SELL TERM NOTE

This cause comes before the Commission upon Application of Carolina Power & Light Company (CP&L), filed under date of July 10, 1972, through its Counsel, Thos. E. Capps, wherein authority of the Commission is sought as follows:

To issue and sell Term Note in an amount not to exceed $50,000,000.

FINDINGS OF FACT

1. CP&L 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 it is engaged in generating, transmitting, delivering and furnishing electricity to the public for compensation.

2. Pursuant to the provisions of its Charter and for the purposes hereinafter stated, CP&L proposes to enter into a Loan Agreement with First National City Bank of New York, New York, dated as of June 21, 1972, a copy of which was attached to CP&L's Application as Exhibit A. Pursuant to the Agreement the Bank agrees to make loans to CP&L from time to time through August 1, 1972, in the aggregate amount of not more than $50,000,000. The aggregate amount of such borrowings by CP&L will be evidenced by an unsecured promissory note substantially in the form attached to CP&L's Application as Exhibit B, to be dated the date of the first borrowing under the Agreement and to mature on July 31, 1978. The note will bear interest at a fluctuating rate which will be equal to various specified multiples of the Bank's base rate on 90-day loans to responsible and substantial commercial borrowers in effect from time to time. Such multiples are as set forth in Section I of the Loan Agreement attached to CP&L's Application as Exhibit A.

Interest is payable on the last day of each October, January, April and July of each year. The note may be prepaid at any time without penalty or premium.

3. In the period from January 31, 1972, through May 31, 1972, CP&L's construction expenditures for additional electric plant facilities totaled $97,181,074. The proceeds from the issuance of the note will be applied to the reduction of short-term loans incurred for corporate purposes, primarily for the construction of additional electric plant facilities, which short-term loans totaled $31,293,557 at May 31, 1972.

4. CP&L's most recent permanent financing was the issuance and sale in April, 1972, of $100,000,000 principal amount of First Mortgage Bonds, 7-3/4% Series due 2002. CP&L's capital structure is such that it is appropriate and reasonable to issue and sell the note at the present time; and the issuance and sale of the note in an amount not to exceed $50,000,000 is a necessary step to obtain a portion of the funds needed now in connection with financing the Company's construction program. CP&L proposes to issue and sell the note for an amount not in excess of $50,000,000 on August 1, 1972.

5. CP&L will incur only minimal expenses in connection with the issuance and sale of the note.

CONCLUSIONS

From a review and study of the Application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so finds that the transactions herein proposed are:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public as a utility and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED, That Carolina Power & Light Company, be, and it is hereby authorized, empowered and permitted under the terms and conditions set forth in the Application:

1. To issue and sell its Term Note to First National City Bank in an amount not to exceed $50,000,000;

2. To use and apply the net proceeds from the issuance and sale of the Term Note described herein to the purposes set forth in the Application; and

3. To file with this Commission, when available in final form, one copy of the Term Note.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of July, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 216

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Carolina Power & Light Company -	) ORDER GRANTING
Application for Authority to Issue and	) AUTHORITY TO
Sell 500,000 Shares of Serial	) NEGOTIATE SALE
Preferred Stock	) OF SECURITIES

This cause comes before the Commission upon an Application of Carolina Power & Light Company (Company), filed under date of August 10, 1972, through its Counsel, Thos. E. Capps, wherein authority of the Commission is sought as follows:

To issue and sell not to exceed 500,000 shares of new Serial Preferred Stock, without par value, to underwriters with a dividend rate not to exceed 8.25%.

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. The Company's capital stock outstanding as of June 30, 1972, consists of common stock with a stated value of $281,664,789 and preferred stock having a stated value of $124,375,000.

3. The Company's existing long-term debt at June 30, 1972, amounted to $634,030,000 and $122,633 in Promissory Notes. The First Mortgage Bonds were issued and pursuant to an Indenture dated as of May 1, 1940, and duly executed by the Company to Irving Trust Company of New York as Corporate

Trustee, as supplemented and amended by sixteen Supplemental Indentures.

4. The Company proposes to issue and sell not to exceed 500,000 shares of new Serial Preferred Stock to Underwriters represented by Merrill Lynch, Pierce, Fenner & Smith, Incorporated, and White, Weld & Company, Incorporated, in accordance with an Underwriting agreement under the terms of which the Underwriters propose promptly to make a public offering of such shares of new Serial Preferred Stock. The dividend rate and the amount of compensation for the Underwriters' services will be negotiated and agreed upon between the Company and representatives of the Underwriters on September 6, 1972; and that it will negotiate a dividend rate not to exceed 8.25% and compensation for the Underwriters not to exceed an amount representing $1.40 per share of the new Serial Preferred Stock.

5. Construction expenditures for additional electric plant totaled $23,545,522 in the period from June 1, 1972, through June 30, 1972. The net proceeds from the proposed sale of new Serial Preferred Stock will be used for general corporate purposes including the reduction of short-term borrowings incurred primarily for the construction of new facilities.

6. The Company estimated that it will incur expenses in the amount of $75,000 in the sale of Serial Preferred Stock.

CONCLUSIONS

From a review and study of the Application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so concludes, that the transactions herein proposed are:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED That Carolina Power & Light Company be, and it is hereby, authorized, empowered and permitted under the terms and conditions set forth in its application:

1. To issue and sell not to exceed 500,000 shares of new Serial Preferred Stock, without par value, to Underwriters, with a dividend rate not to exceed 8.25% and compensation

for the Underwriters not to exceed an amount representing $1.40 per share of the new Serial Preferred Stock, pursuant to an Underwriting Agreement substantially in the form of Exhibit A attached to its application in this proceeding;

2. To apply the net proceeds to be derived from the issuance and sale of said additional shares of common stock to the purposes set forth in the application; and

3. To file, within thirty (30) days after the sale of the new Serial Preferred Stock, two (2) copies of the Underwriting Agreement in final form and a report, in duplicate, of the sale of new Serial Preferred Stock, as Supplemental Exhibits in this proceeding.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of September, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-2, SUB 218

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Carolina Power & Light Company -	)	ORDER
Application for Authority to	)	GRANTING AUTHORITY
Issue and Sell 2,500,000 Shares	)	TO SELL
of Common Stock	)	SECURITIES

This cause comes before the Commission upon an Application of Carolina Power & Light Company (Company), filed under date of October 6, 1972, and amended under date of October 17, 1972, through its Counsel, Thos. E. Capps, wherein authority of the Commission is sought as follows:

To issue and sell not to exceed 2,500,000 shares of common stock, without par value, to Underwriters, pursuant to an Underwriting Agreement.

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. The Company's capital stock outstanding as of July 31, 1972, consists of common stock with a stated value

of $281,726,923 and preferred stock having a stated value of $124,375,900.

3. The Company's existing long-term debt at July 31, 1972, amounted to $634,030,000 in First Mortgage Bonds, $50 million in a Six-Year Term Note and $122,633 in Promissory Notes. The First Mortgage Bonds were issued under and pursuant to an Indenture dated as of May 1, 1940, and duly executed by the Company to Irving Trust Company of New York as Corporate Trustee, as supplemented and amended by sixteen Supplemental Indentures.

4. The Company proposes to issue and sell not to exceed 2,500,000 shares of common stock to Underwriters represented by Merrill Lynch, Pierce, Fenner & Smith, Incorporated, in accordance with an Underwriting Agreement under the terms of which the Underwriters propose promptly to make a public offering of such shares of common stock. The price per share to be received by the Company for such additional shares of common stock and the price at which the same will be offered to the public by the Underwriters will be negotiated and agreed upon between the Company and representatives of the Underwriters on October 31, 1972; but the Company represents that it will negotiate a price therefor, after deduction of the underwriting commission or fee, not less than 93% of the last sale price of the Company's common stock on the New York Stock Exchange on that date.

5. Construction expenditures for additional electric plant totaled $24,299,439 in the period from July 1, 1972, through July 31, 1972, as reflected by the Company's Exhibit B attached to the application. The net proceeds from the proposed sale of common stock will be used for general corporate purposes including the reduction of short-term borrowings incurred primarily for the construction of new facilities.

6. The Company estimated that it will incur expenses in the amount of $100,000 in the sale of the common stock.

CONCLUSIONS

From a review and study of the Application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so concludes, that the transaction herein proposed is:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for or consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED that Carolina Power & Light Company be, and it is hereby, authorized, empowered and permitted under the terms and conditions set forth in its application:

1. To issue and sell not to exceed 2,500,000 additional shares of common stock, without par value, to Underwriters, pursuant to an Underwriting Agreement substantially in the form of Exhibit A attached to its application in this proceeding, at a price per share, after deduction of the underwriting commission or fee, not less than 93% of the last sale price of the Company's common stock on the New York Stock Exchange on October 31, 1972.

2. To apply the net proceeds to be derived from the issuance and sale of said additional shares of common stock to the purposes set forth in the Application.

3. To file, within thirty (30) days after the sale of said additional shares of Common Stock, 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.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 144

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Virginia Electric and Power	)	ORDER GRANTING
Company - Application for	)	AUTHORITY TO ISSUE
Authority to Issue $50	)	$50 MILLION 5-YEAR
Million 5-Year Term Note	)	TERM NOTE

This cause is before the Commission upon an Application of Virginia Electric and Power Company (hereinafter called "VEPCO") filed August 16, 1972, wherein authority is sought by VEPCO to issue its $50 Million 5-Year Term Note as described below.

Based on the evidence of record herein, the records of the Commission, and the verified representations in the Application, the Commission makes the following

FINDINGS OF FACT

1. VEPCO is a corporation duly organized and existing under the laws of the Commonwealth of Virginia, with its general offices in Richmond, Virginia, and is authorized to engage in the business of generating, transmitting, distributing and selling electric power in the State of North Carolina. It is a public utility under the laws of North Carolina and as such is subject to the jurisdiction of this Commission.

2. VEPCO's construction program during 1972 is anticipated to require expenditures of about $486 million, including $27 million for nuclear fuel. In February of 1972, the Company sold $45 million of preferred stock and in June of 1972, $100 million of First Mortgage Bonds. Additional new money will be needed during the remainder of 1972 and it is planned that approximately $23 million will come from the sale and lease-back of nuclear fuel (Docket No. E-22, Sub 142), and $20 million from the sale and lease-back of electrostatic precipitators at the Mt. Storm Power Station. The Company also plans to sell preferred stock and additional shares of common stock in 1972 (Docket No. E-22, Sub 145).

3. The Company proposes to raise $50 million from the placement of a 5-year term bank loan with First National City Bank.

4. The proposed term bank loan will mature five years from the date of issuance at a cost of money not to exceed 120% of the Bank's base rate in effect from time to time and not to exceed an average of 7-3/4% over the 5-year period.

5. VEPCO proposes to issue its $50 million 5-year term note for the purpose of obtaining funds to finance the cost of its construction program, including repayment of outstanding short-term debt incurred for that purpose. The long-term effect of the proposed transaction will be to reduce sales of VEPCO's securities that would be otherwise required to finance its construction program.

6. Expenses and fees to be paid by VEPCO in connection with the negotiation and consummation of the transactions described in this order or in the application are estimated not to exceed $9,000.

CONCLUSIONS

From a review and study of the application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so concludes that the transactions herein proposed are:

(a) For a lawful object within the corporate purposes of VEPCO;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED That Virginia Electric and Power Company be, and it is hereby, authorized, empowered and permitted:

1. To issue its $50 million 5-year term note described in this order and in the application, including the assumption of the obligations set out in the form of Term Loan Agreement including the Promissory Note, and to execute such instruments, documents and agreements as shall be necessary or appropriate in order to effectuate such transaction; and

2. That VEPCO file with this Commission, within thirty (30) days after consummation of the transaction described in this order and in the application, a report setting forth the final terms of such transaction (including the expenses of the transaction), and within such time VEPCO shall file with this Commission a copy of the Loan Agreement and Promissory Note in the final form in which the same are executed; and that this proceeding be, and the same is, continued on the docket of the Commission, without day, for the purpose of receiving the aforementioned documents and the terminal results of the transaction, as hereinabove provided, and nothing in this order shall be construed to deprive this Commission of its regulatory authority under law or to relieve VEPCO from compliance with any law or the Commission's regulations.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. E-22, SUB 142

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Virginia Electric and Power Company Application for Authority to Lease Nuclear Fuel	))))	ORDER GRANTING AUTHORITY TO LEASE NUCLEAR FUEL

This cause came before the Commission upon Application of Virginia Electric and Power Company (Vepco) filed August 1, 1972, wherein authority is sought by Vepco to sell and lease back nuclear fuel as described below.

Based on the evidence of record herein, the records of the Commission, and the verified representations in the Application, the Commission makes the following

FINDINGS OF FACT

1. Vepco is a corporation duly organized and existing under the laws of the Commonwealth of Virginia, with its general offices in Richmond, Virginia, and is authorized to engage in the business of generating, transmitting, distributing and selling electric power in the State of North Carolina. It is a public utility under the laws of North Carolina, and as such is subject to the jurisdiction of this Commission.

2. Vepco's construction program during 1972 is anticipated to require expenditures of approximately $486 million, of which approximately $388 million must be raised through the financial markets.

3. Vepco presently owns 157 fuel assemblies (comprising the initial core) of Nuclear Fuel at its Surry Nuclear Power Station in Surry County, Virginia, being utilized to produce heat for the operation of Surry Unit 1 and it plans to acquire from time to time additional fuel assemblies to replace fuel which has been depleted (all such assemblies being referred to hereafter as the Nuclear Fuel). The 157 fuel assemblies presently owned are described in Exhibit 1 to the Application.

4. Vepco proposes to sell and lease back the 157 fuel assemblies for the purpose of obtaining funds to finance the cost of its construction program, including repayment of outstanding short-term indebtedness incurred for that purpose. It also proposes to continue to finance replacement fuel pursuant to the same leasing arrangement. The long-term effect of the proposed transaction will be to reduce sales of Vepco's securities that would be otherwise required to finance the acquisition of Nuclear Fuel.

5. The proposed Nuclear Fuel lease arrangement, which is described in the Application, is as follows:

(a) Vepco would, after having obtained a release from the lien of its Indenture of Mortgage for the first 157 fuel assemblies, by execution and delivery of a Bill of Sale, transfer title to such assemblies to SN-1 Fuel, Inc., a Virginia corporation (the Owner), which would thereupon lease the Nuclear Fuel to Vepco under a net lease (the Lease). Upon request by Vepco, the Owner would make progress payments for and acquire replacement Nuclear Fuel or reimburse Vepco for payments made by Vepco for

replacement Nuclear Fuel for Surry Unit 1 now scheduled to be placed in the reactor in 1974 and 1975, respectively. The Lease would have an initial term of five years and could be extended by agreement of the parties annually thereafter until the year 2022. The Owner would acquire the Nuclear Fuel for its own account, subject to the matters set forth below, but the Owner would make no equity investment in the Nuclear Fuel.

(b) The Owner would sell its own commercial paper in the commercial paper market and, in order to make such commercial paper marketable, the Owner would enter into a Credit Agreement (the Credit Agreement) with Manufacturers Hanover Trust Company (the Bank) under which the Bank would issue letters of credit guaranteeing the Owner's commercial paper and it would also agree to make revolving credit loans to the Owner (should it be less desirable to raise funds in the commercial paper market) at 120% of the Bank's prime rate (the commercial paper and the revolving credit loans hereinafter being referred to as "the Notes"). The Owner would obtain all funds required to pay Vepco for the Nuclear Fuel (estimated for the first 157 assemblies to be approximately $23 million) by selling its Notes in the commercial paper market or to the Bank. All of the Owner's authorized capital stock would be owned by an employee of Goldman, Sachs & Co., a New York partnership, which is a registered broker-dealer under the Securities Exchange Act of 1934, as amended. The Notes sold would be sufficient to equal 100% of the original cost of the Nuclear Fuel exclusive of Allowance for Funds Used During Construction and including the initial fees and expenses associated with the transaction in the case of the first 157 fuel assemblies. The accumulated Allowance for Funds Used During Construction allocable to such assemblies will be transferred from Plant to Deferred Debits and amortized to Fuel Expense as the assemblies are burned. Notes sold for replacement Nuclear Fuel would be sufficient to equal 100% of the original cost plus the cumulative interest and fees of the Lessor incurred prior to consumption.

(c) The Notes would mature from time to time at intervals from 30 days to 270 days in the case of the commercial paper, and upon termination of the Credit Agreement in the case of the revolving credit loans. Commercial paper would be refunded for the sale of additional commercial paper or the making of revolving credit loans. The Owner would assign to the Bank all its rights under the Lease, including the right to receive all rents and other sums payable by Vepco as Lessee. The Bank would have the further surety of a Consent to Assignment between the Company and the Bank by which the Company would agree to the assignment of all its obligations under the Lease to the Bank, and make all payments under the Lease directly to the Bank for application to payment of the Notes as provided in the Lease. A Security Agreement from the Owner to the Bank would grant to the Bank a security

interest in the Nuclear Fuel. Vepco would not guarantee the Notes.

(d) During the term of the Lease, Vepco would have the absolute and uncontrolled right to use the Nuclear Fuel subject only to the conditions of the Lease, and Vepco would exercise the same control over the operation and management of the Nuclear Fuel as it now exercises. The Lease would not impair Vepco's ability to perform its service to the public as an electric utility.

(e) The Lease would be a completely net lease under which Vepco would be responsible for maintaining, operating, repairing, replacing and insuring the Nuclear Fuel and for paying all taxes and other costs arising out of the ownership, possession and use thereof. Rental payments made by Vepco quarterly would be in an amount sufficient to pay the interest costs actually incurred during the quarter by the Owner and to retire portions of the Notes outstanding equivalent to the value of the Nuclear Fuel burned during the quarter. Interest costs would include the prevailing rates in the commercial paper market or 120% of the Bank's prime rate at the time, whichever is lower, plus the normal brokers' commission of 1/8th percent for the sales of commercial paper, an administration fee of 1/8th percent to the Owner and a commitment fee on commercial paper outstanding of 9/10ths of one percent to the Bank. At the time of receipt of proceeds from the sale of the first 157 fuel assemblies, Vepco will pay to Goldman, Sachs & Co., an initial fee of $60,000 for its investment banking services.

(f) Upon sixty days' notice, Vepco will have the right to terminate the Lease without penalty and to purchase any of the Nuclear Fuel subject thereto at a price equal to the then unpaid principal of the Notes plus interest thereon or fair market value, whichever is higher.

(g) Vepco proposes to charge the rent under the Lease to Fuel Expense. Vepco also proposes to account for the transaction as a lease rather than a purchase. While Vepco is assuming the risks of ownership, the Lease payments are such that it will not build up a material equity in the property and, accordingly, the proposed lease should be accounted for as a lease.

6. Expenses and fees to be paid by Vepco in connection with the negotiation and consummation of the transactions described in this Order or in the Application are estimated not to exceed $126,000.

CONCLUSIONS

From the review and study of the Application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so concludes that the transaction herein proposed is:

(a) For a lawful object within the corporate purposes of Vepco;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Vepco of its service to the public; and

(d) Reasonably necessary and appropriate for such purposes;

and that the transaction will not impair Vepco's ability to properly perform its service to the public.

IT IS, THEREFORE, ORDERED that Virginia Electric and Power Company be, and it is hereby authorized, empowered and permitted, subject to the limitations contained in paragraph 2 below:

1. To enter into the sale and lease back and continued leasing and related transactions described in this Order and in the Application, including the assumption of the obligations set out in the Lease, and to execute such instruments, documents and agreements as shall be necessary or appropriate in order to effectuate such transaction.

2. To devote the proceeds of the transactions described in the Order to the purposes set forth in the Application.

3. To charge the rent under the Lease to Fuel Expense and to account for the transaction as a lease rather than a purchase.

IT IS FURTHER ORDERED that the Owner will not render any service to the public as a utility or exercise any of the rights and privileges or bear any of the duties or obligations of a public utility, and, therefore, the Owner shall not be considered a public utility by reason of the transactions described above.

IT IS FURTHER ORDERED that Vepco file with this Commission within thirty (30) days after the consummation of the transaction described in this Order and in the Application a report setting forth the final terms of such transaction (including the price received by Vepco for the first 157 fuel assemblies of Nuclear Fuel and the expenses of the transactions), and within such time Vepco shall file with this Commission a copy of the Bill of Sale, Lease, Credit Agreement, and Security Agreement and all other instruments, documents and agreements entered into by Vepco that are material to the transaction and the final form in which the same are executed; and that this proceeding be, and the same is, continued on the docket of the Commission, without day, for the purpose of receiving the aforementioned documents and the terminal results of the transaction, as hereinabove provided, and nothing in this Order shall be construed to

deprive this Commission of its regulatory authority under law or to relieve Vepco from complying with any law or the Commission's regulations.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 83
DOCKET NO. G-21, SUB 84
DOCKET NO. G-21, SUB 85
DOCKET NO. G-21, SUB 87
DOCKET NO. G-21, SUB 88
DOCKET NO. G-21, SUB 89

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
North Carolina Natural Gas Corporation Filing of Increased Rates to Recover Increases in Cost of Gas to It from Its Supplier	) ORDER APPROVING INCREASED TARIFFS AND ESTABLISHING PROCEDURES TO RECOVER INCREASED COST OF GAS

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on April 11, 1972.

BEFORE: Commissioner Hugh A. Wells, presiding, Chairman Harry T. Westcott, Commissioners John W. McDevitt, Marvin R. Wooten and Miles H. Rhyne.

APPEARANCES:

For the Applicant:

Donald W. McCoy
McCoy, Weaver, Wiggins, Cleveland & Raper
Attorneys at Law
P. O. Box 1688, Fayetteville, North Carolina

For the Commission Staff:

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

WELLS, COMMISSIONER: On January 7, 1972, North Carolina Natural Gas Corporation (North Carolina Natural) filed with the North Carolina Utilities Commission (Commission) three separate applications in Docket No. G-21, Subs 83, 84, and 85 for authority to increase rates by .742¢ per Mcf, said increase to become effective February 10, 1972. These increases result from increases in cost of gas to North Carolina Natural from its supplier, Transcontinental Gas Pipe Line Corporation (Transco).

North Carolina Natural on March 31, 1972, filed three additional applications in Docket No. G-21, Subs 87, 88 and 89 in the amount of 1.06¢ per Mcf in order to recover additional increases in cost of gas to it from its supplier, Transco, said tariffs filed to become effective May 1, 1972.

All of the above increases sought to be recovered by North Carolina Natural result from the approval of the interim settlement agreement by the Federal Power Commission in Transco Docket No. RP71-118 on November 15, 1971. These increases in cost of gas from Transco result from the fact that Transco under its present supply conditions cannot deliver to North Carolina Natural full contract volumes. At the same time, Transco makes no reduction in the cost of gas for the curtailed volumes and the demand charges related thereto. Under these circumstances North Carolina Natural receives less gas but pays the same demand charge which results in an increase in cost of gas to North Carolina Natural.

In accordance with the settlement provisions, Transco increased its rates to North Carolina Natural effective February 1, 1972, in the amount of .7¢ per Mcf. This increase will permit Transco to recover curtailment credits paid to its customers in the amount of $3,424,184 and this rate will remain in effect until Transco recovers the $3,424,184.

In its second filing under the settlement agreement, Transco seeks to recover $6,557,437 covering the curtailment credits for the months of December 1971 and January and February 1972, by increasing its rates by 1¢ per Mcf effective May 1, 1972, to North Carolina Natural and its other customers which rate will remain in effect until such time as Transco will recover $6,557,437 of curtailment credits paid to its customers plus additional credits for March 1 through April 15, 1972.

All of the above applications were heard by the Commission at a public hearing on April 11, 1972, after notice to the public as required by the Commission.

The applications as filed were filed pursuant to G.S. 62-133(f) and in accordance with the Commission's Order No. G-100, Sub 14, which establishes procedures in order to recover increased cost of gas where occasioned by an increase in wholesale cost of gas from its supplier to a distributor selling gas in this State.

Based on the evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1) That North Carolina Natural is a corporation duly organized under the laws of the State of Delaware and duly authorized to do business in the State of North Carolina, having its principal office and place of business in Fayetteville, North Carolina, and is subject to the jurisdiction of the North Carolina Utilities Commission.

2) That the increase in cost of gas to North Carolina Natural results from the settlement agreement filed by

Transco and approved by the Federal Power Commission in Docket No. RP71-118, in which settlement agreement the customers of Transco, in this case North Carolina Natural, have received credits to its gas bills through February 1972 amounting to $323,650.36 and will receive additional credits until April 15, 1972. These demand charge credits will be recovered by Transco through increased rates to North Carolina Natural pursuant to the settlement agreement. North Carolina Natural through this transaction does not recover its increased cost of gas unless it is authorized to collect the rates applied for herein.

3) That from April 15, 1972, through November 15, 1972, North Carolina Natural will continue to pay the demand charge related to curtailed volumes; however, no tracking by Transco of these amounts is provided for in the settlement agreement. Said amounts will result in increased cost of gas to North Carolina Natural throughout this period.

4) That the rate of return on rate base and return on equity of North Carolina Natural found by this Commission in its last general rate of return case (Docket No. G-21, Sub 61) to be just and reasonable at July 27, 1971, was 7.21 percent on the fair value rate base and 12.71 percent on return on equity.

5) That the rates of return as shown in Docket No. G-21, Sub 89, the latest filing herein, have decreased compared to those found just and reasonable in Docket No. G-21, Sub 61.

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

CONCLUSIONS

1) That the increase applied for herein by North Carolina Natural is an increase in cost of gas as provided for in G.S. 62-133(f) and should be allowed to become effective pursuant to the procedures established by the Commission in Docket No. G-100, Sub 14.

2) That the rates of return on equity and rate base of North Carolina Natural have decreased from that found to be just and reasonable by the Commission in Docket No. G-21, Sub 61, the last general rate case, after adjusting for the increased rate applied for and the increased cost of gas from its supplier.

3) The increases in cost of gas to North Carolina Natural will vary from month to month depending upon the amount of gas curtailed by Transco to North Carolina Natural in accordance with the interim settlement agreement provisions approved by the Federal Power Commission. In order to enable North Carolina Natural to recover only the increased cost of gas to it from its supplier in a stable and systematic manner, North Carolina Natural shall establish a memoranda account entitled Curtailment Credits

for Tracking of Gas Cost (memoranda account) in which it shall record as debits all demand charges relating to curtailed volumes for the period provided for in the interim settlement and shall credit said memoranda account with the revenues received by North Carolina Natural from the proposed rates filed to become effective May 1, 1972, in the amount of 1.802¢ per Mcf less gross receipts applicable to the increased rate until such time that recovery of this gas cost (demand charges related to curtailment) is complete and this memoranda account reaches a zero balance.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That the tariffs filed by North Carolina Natural Gas Corporation in Docket No. G-21, Subs 87, 88 and 89, which include the increases in Docket No. G-21, Subs 83, 84, and 85, be, and are hereby, approved to become effective May 1, 1972.

2) That North Carolina Natural Gas Corporation shall establish a memoranda account entitled Curtailment Credits for Tracking of Gas Cost, recording as debits all demand charges relating to curtailed volumes and crediting to said account the revenues received from the increase in rates as provided herein (less gross receipts tax), until said account approaches a zero balance and when this account approaches a zero balance, North Carolina Natural Gas Corporation shall file on one day's notice revised rate schedules terminating the increase in rates herein granted.

3) That this memoranda account shall be credited with any dollar amounts recorded in Account No. 253 that have been accumulated by North Carolina Natural Gas Corporation and provided for Commission's Order in Docket No. G-100, Sub 4 ($35,712.29).

4) That North Carolina Natural Gas Corporation shall submit to the Commission its initial entries on its records as provided for herein and further shall submit monthly statements of the transactions in the memoranda account, using sub-account numbers to identify the activity in this account by the Federal Power Commission and the North Carolina Utilities Commission docket numbers.

5) That this Order shall remain open for such further orders of the Commission as may be required.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of April, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 83
DOCKET NO. G-21, SUB 84
DOCKET NO. G-21, SUB 85

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of North Carolina	)	ORDER DENYING RATE
Natural Gas Corporation for an	)	INCREASES FILED TO
Adjustment of Its Rates and	)	BECOME EFFECTIVE
Charges	)	FEBRUARY 1 & 10, 1972

BY THE COMMISSION: On January 7, 1972, North Carolina Natural Gas Corporation (North Carolina Natural) filed with the North Carolina Utilities Commission (Commission) three applications in the dockets listed in the caption for authority to increase its rates and charges in order that it might recover increases in the cost of gas from Transcontinental Gas Pipe Line Corporation (Transco).

Based on the applications as filed and the other records of the Commission, the Commission makes the following:

FINDINGS OF FACT

1) North Carolina Natural is a natural gas company operating in the State of North Carolina subject to the jurisdiction of the North Carolina Utilities Commission.

2) On January 7, 1972, North Carolina Natural filed increased rates in which it seeks to recover from its customers in these dockets $245,193 on an annual basis. These filings result in an increase in each rate to all of its customers of .742 cents per Mcf.

3) Transco on December 29, 1971, in Docket No. RP71-118 filed a tracking rate to recoup curtailment credits pursuant to the settlement agreement approved by the Federal Power Commission on November 15, 1971. This filing by Transco results in an increase in cost of gas to North Carolina Natural of .7 cents per Mcf.

4) Transco in its filing with the Federal Power Commission dated December 29, 1971, (RP71-118) states that it has refunded to its customers the balance in the "Deferred Cost Account" of $3,424,184. North Carolina Natural received $145,456.89 of this amount in December 1971. This refund results from the demand charge credits relating to the portion of the curtailment volumes for the period June through November 1971.

5) Transco in accordance with the settlement agreement approved by the Federal Power Commission filed a tracking provision seeking to recover the $3,424,184 it refunded by increasing the rates of the affected rate schedules by .7 cents per Mcf. The .7 cents per Mcf was arrived at by dividing $3,424,184 by the volume of gas delivered under the

affected rate schedules which amounted to 464,595,703 Mcf and covers the same period for which the credits were calculated.

Transco under the settlement agreement simply refunded the curtailment credits of $3,424,184 to its customers and then filed a tracking rate in the amount of .7 cents per Mcf to recover these dollars from its customers. The tracking increase of .7 cents per Mcf will terminate when Transco collects from its customers the $3,424,184.

6) Transco will track the demand charge credits for the period December 1971 through April 15, 1972. Transco is authorized under the settlement agreement to file to recover demand charge credits once each quarter. The tracking of demand charge credits terminates April 15, 1972, in accordance with the settlement agreement.

7) The filings by North Carolina Natural in these dockets were made under the provisions of G.S. 62-133(f) and it submitted the data required by the Commission in its Order in Docket No. G-100, Sub 14.

Based on the foregoing findings of fact the Commission arrives at the following

CONCLUSIONS

The Commission in approving increases in rates occasioned by the increase in the cost of gas to gas distributors in North Carolina pursuant to G.S. 62-133(f) has provided that refunds received by North Carolina distributors be placed in a restrictive account for further orders of the Commission. This provision was inserted in the recently issued North Carolina Natural tracking filings in Docket No. G-21, Subs 72, 78, 79, and 80 issued on December 16, 1971, and other miscellaneous tariff filings. North Carolina Natural has received the amount of $145,456.89 in refunds relating to the demand charge curtailments which were refunded by credit to the cost of gas on the December 1971 gas bill of North Carolina Natural from Transco. The credits cover a six-month period.

The increased rates applied for herein seek to recover from its customers an amount equivalent to the refund made to North Carolina Natural by Transco, if equated to an equivalent time period. If the Commission authorizes the rates as herein applied for and requires North Carolina Natural to refund the refunds received by North Carolina Natural from Transco by credits to the gas bill over the same time period, it is obvious that one would tend to cancel the other and that no benefits would accrue to North Carolina Natural's customers or to North Carolina Natural.

The Commission further believes that on analysis that this increase is not the type of increase in rates contemplated by the Legislature in accordance with G.S. 62-133(f).

The Commission is of the opinion that for the reasons stated herein that the request by North Carolina Natural to increase its rates to track the curtailment credits for the demand charge adjustment as filed herein should be denied.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That the applications filed by North Carolina Natural Gas Corp. for authority to increase its rates and charges on January 7, 1972, to become effective on February 1 and 10, 1972, in Docket No. G-21, Subs 83, 84, and 85 be, and are hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-21, SUB 94

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of North Carolina Natural Gas Corporation for an Adjustment of Its Rates and Charges	) ORDER APPROVING TRACKING INCREASE

BY THE COMMISSION: On September 1, 1972, North Carolina Natural Gas Corporation (North Carolina Natural) filed an application with the North Carolina Utilities Commission in Docket No. G-21, Sub 94, in which it seeks to increase its rates to its customers in order that it might recover increases in the cost of gas to it from its wholesale supplier, Transcontinental Gas Pipe Line Corporation (Transco). In this instant filing North Carolina Natural is seeking to recover an increase in the cost of gas to it of .8¢ per Mcf effective October 1, 1972. This increase of .8¢ per Mcf is composed of .2¢ per Mcf increase which represents increases in the cost of gas to Transco from its suppliers. Six-tenths of a cent per Mcf represents unrecovered gas cost which Transco has incurred and which Transco is seeking to recover pursuant to the settlement agreement approved by the Federal Power Commission (FPC) under Docket No. RP71-118. The .6¢ per Mcf increase in the cost of gas will be collected for a period of approximately twelve months or until Transco has recovered its unrecovered gas cost of $5,443,902 and at that time the rate to North Carolina Natural will be reduced by Transco accordingly.

In Docket No. RP71-118 Transco proposed to reduce its rates due to the elimination of the curtailment tracking increases. This reduction will not affect North Carolina Natural's rates until North Carolina Natural recovers all

increases relating to curtailment as authorized by this Commission in Docket No. G-21, Subs 83, 84, 85, 87, 88 and 89, at which time North Carolina Natural is required to reduce its rates as required by order of this Commission.

The increase in rates sought by North Carolina Natural in this docket is .86¢ per Mcf (.8¢ per Mcf cost of gas increase plus related gross receipts taxes) and will result in an annual increase in cost of gas to North Carolina Natural's customers of $316,745.

The North Carolina General Assembly adopted Chapter 1092, Session Laws of 1971, ratified July 21, 1971, North Carolina G.S. 62-133(f) which provides as follows:

"Unless otherwise ordered by the Commission, Subsections (b), (c) and (d) shall not apply to rate changes of utilities engaged in the distribution of natural gas bought at wholesale by a utility for distribution to consumers to the extent such rate changes are occasioned by changes in the wholesale rate of such natural gas. The Commission may permit such rate change to become effective simultaneously with the effective date of the change in the wholesale cost of such natural gas, or at such other time as the Commission may direct. This Subsection shall not prohibit the Commission from investigating and changing unreasonable rates in accordance with the provisions of this Chapter. The public utility shall give such notice, which may include notice by publication, of the changes to interested parties as the Commission in its discretion may direct."

Pursuant to the authority granted above to the Commission by the Legislature, the Commission issued in Docket No. G-100, Sub 14, requiring certain data as follows to be filed with the Commission for the consideration of increased rates filed solely to recover increases in the cost of gas to a gas utility company in this State if approved by the Federal Power Commission.

Pursuant to that order North Carolina Natural filed the following data:

1) Summary of North Carolina Natural rates and charges as approved by this Commission in Docket No. G-21, Sub 89.

2) Schedules of North Carolina Natural rates and charges which North Carolina Natural seeks to place in effect on October 1, 1972, in Docket No. G-21, Sub 94.

3) Statement of original cost rate base.

4) Statement of present fair value rate base.

5) Statement showing plant balances and accrued depreciation balances and depreciation rates.

6) Statement of materials and supplies necessary for operation of the Petitioner's business.

7) Statement showing amount of cash working capital which Petitioner finds necessary to keep on hand.

8) Statement of net operating income for return for twelve months ended May 31, 1972.

9) Statement showing effect of proposed increase in rates.

10) Balance sheet and income statement for the year ended May 31, 1972.

11) Statement showing rate of return on rate base.

12) Statement showing rate of return on equity.

13) A copy of the Federal Power Commission Order, under which the wholesale price increase is to be incurred, will be submitted as a late exhibit filed when available.

The data as filed was reviewed and analyzed by the Commission's Accounting and Engineering Staff and a report of same submitted to the Commission for its consideration.

Notice of the proposed filing in this docket was given to the public by North Carolina Natural inserting a public notice in various newspapers throughout its service area in North Carolina.

Based on the application as filed and the records of the Commission in this docket, the Commission makes the following

FINDINGS OF FACT

1) That North Carolina Natural Gas Corporation is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2) The increase in the cost of gas which North Carolina Natural is seeking to recover in Docket No. G-21, Sub 94, has been approved by the Federal Power Commission effective October 1, 1972.

3) North Carolina Natural filed tariffs to recover this increase in the cost of gas plus related gross receipts taxes to become effective on all gas sold on and after October 1, 1972. All tariffs will be increased .86¢ per Mcf.

4) That the rate of return as approved by the Commission in Docket No. G-21, Sub 61, issued on July 30, 1971, for the test period ending September 30, 1970, and that determined by the Commission in this docket are listed below:

	Approved in Docket No. G-21, Sub 61 September 30, 1970	Present Filing
On investment	8.02	7.47
On equity	12.71	12.52

The return on end of period investment and return on equity in these proceedings have decreased from that found just and reasonable by the Commission in the last rate of return filing approved by this Commission and made effective July 30, 1971, after the adjustments for the proposed increases as applied for herein.

CONCLUSIONS

In accordance with G.S. 62-133(f) the Commission has statutory authority to consider as a separate item increases in the cost of gas to gas utilities in North Carolina occasioned by increases in cost of gas to them from their wholesale supplier as approved by the Federal Power Commission. The Commission issued a general order in Docket No. G-100, Sub 14, providing that after review of the data filed by the natural gas utilities as described therein, if the Commission concludes from such review and analysis that the filings will not result in an increase in the company's rate of return over that most recently approved by the Commission, that the pass-on of the wholesale increased cost of gas will be allowed.

The Commission considers the filings and applications herein as complying with G.S. 62-133(f) as allowed to become effective without hearing.

The Commission concludes that in this proceeding the rate of return of North Carolina Natural has decreased since the last general rate proceeding in Docket No. G-21, Sub 61, which order was issued on July 30, 1971.

Based on the foregoing Findings of Fact and Conclusions, the Commission is of the opinion that the rate increase as filed by North Carolina Natural that seeks solely to recover increases in the cost of gas to it from its supplier as approved by the Federal Power Commission should be allowed as a filing pursuant to G.S. 62-133(f) and should be permitted to become effective without hearing.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That the tariffs filed by North Carolina Natural Gas Corporation as Exhibit No. 2 in Docket No. G-21, Sub 94, be, and are hereby, authorized to become effective on all gas consumed on and after October 1, 1972.

2) That at such time that the rate to North Carolina Natural Gas Corporation is reduced as a result of Transcontinental Gas Pipe Line Corporation having collected

its unrecovered gas cost that North Carolina Natural Gas Corporation shall immediately file on one day's notice reduced tariffs reflecting this change plus applicable gross receipts taxes.

3) That in the event the increases sought by Transcontinental Gas Pipe Line Corporation in the various Federal Power Commission dockets upon which these rates are based are reduced, North Carolina Natural Gas Corporation shall immediately file tariffs reflecting corresponding decreases in its tariffs as authorized herein.

4) In the event any refunds are received by North Carolina Natural Gas Corporation from Transcontinental Gas Pipe Line Corporation as a result of action by the Federal Power Commission or if producer refunds flow through to Transcontinental Gas Pipe Line Corporation which are in turn passed on to North Carolina Natural Gas Corporation, all such refunds, if any, shall be placed in the Restricted Account No. 253 "Other Deferred Credits" and shall be held in said restricted account subject to disposition and direction by the North Carolina Utilities Commission. Information concerning future refunds shall be furnished the Commission not less than 15 days from the date of receipt; the information shall include the source thereof including the docket numbers and order dates of any proceeding involved in such refunds.

5) That the attached Notice, Appendix "A", be mailed to all customers along with the next bill advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of September, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
NOTICE

Upon application by North Carolina Natural Gas Corporation the North Carolina Utilities Commission approved increased rates on all gas consumed on and after October 1, 1972. The increase approved results in an increase of .86¢ per Mcf on all rate schedules. This increase allows North Carolina Natural Gas Corporation to recover only the increase in cost of gas to it from its supplier, Transcontinental Gas Pipe Line Corporation, plus related gross receipts taxes, which increase has been approved by the Federal Power Commission.

DOCKET NO. G-3, SUB 45
DOCKET NO. G-3, SUB 46

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Pennsylvania and Southern Gas Company (North Carolina Gas Service) for an Adjustment of Rates and Charges.	)	ORDER ALLOWING PARTIAL INCREASE IN RATES AND CHARGES

BY THE COMMISSION: On August 13, 1971, Pennsylvania and Southern Gas Company (North Carolina Gas Service), in Docket No. G-3, Sub 45, filed an application with the North Carolina Utilities Commission for an adjustment of its rates and charges for natural gas service and for approval of new rate schedules containing Purchased Gas Adjustment Clauses in order that it might recover increases in the cost of gas to it from its suppliers, Transcontinental Gas Pipe Line Corporation (Transco) and Public Service Company of North Carolina, Inc., (Public Service). The Commission on August 19, 1971, issued its Order suspending the rates filed on August 13, 1971.

On October 1, 1971, North Carolina Gas Service filed an Amendment to its Petition in order that it might recoup additional increases in the cost of gas to it from Transco and Public Service. On October 19, 1971, North Carolina Gas Service filed an Undertaking pursuant to G.S. 62-135 in order that it might put into effect the increased rates filed for on August 13, 1971.

On October 21, 1971, the Commission issued its Order, allowing amendment to update filing of October 1, 1971, suspending the rates filed in the Amendment to the Petition, and further required North Carolina Gas Service to file additional data as required in its Order, Docket No. G-100, Sub 14.

On November 10, 1971, an Undertaking was filed by North Carolina Gas Service pursuant to G.S. 62-135 in order that it might put into effect the increased rates sought in its Amendment to its Petition dated October 1, 1971.

On November 19, 1971, the Commission approved the Undertaking filed by the North Carolina Gas Service under date of November 10, 1971.

On November 22, 1971, North Carolina Gas Service filed a Second Amendment to its Petition in order to recoup that part of the increased cost of purchased gas which it failed to include in certain rate schedules in the Petition and first Amendment to the Petition. This was a $0.12 per MCF increase in storage demand cost (GSS-Service) from Transco which became effective July 1, 1971.

On December 21, 1971, the Commission issued its Order suspending the rates filed by North Carolina Gas Service in its Second Amendment to the Petition filed on November 22, 1971.

Each of the above increases filed by North Carolina Gas Service seeking to recover the increased cost of gas to it from its suppliers in Docket No. G-3, Sub 45 has been approved by the Federal Power Commission or by this Commission.

Below are listed the increases in the cost of gas to North Carolina Gas Service as contained in Docket No. G-3, Sub 45:

(1) Effective July 1, 1971, Transco increased the demand charges for its GSS service from $1.42 MCF/month to $1.54 MCF/month.

(2) Effective July 26, 1971, Transco increased its CD-2 rates by .1¢ per MCF.

(3) Effective August 2, 1971, Transco increased its CD-2 rates by .6¢ per MCF.

(4) North Carolina Gas Service purchases gas from Public Service which provides for an automatic adjustment in its tariffs to reflect increases in cost of gas purchased from Public Service's supplier, Transco.

(5) The North Carolina Utilities Commission approved increased rates for Public Service effective June 1, 1971. North Carolina Gas Service purchased gas from Public Service under Rate Schedule No. 13, Sales to Public Utilities, which rates were increased from 20% to 30% above the Transco commodity rate.

(6) Effective November 14, 1971, Transco increased its CD-2 rates by 1.2¢/MCF.

(7) Effective November 14, 1971, Transco increased its CD-2 rates by .1¢/MCF.

In order for North Carolina Gas Service to recover the increased cost of gas to it as listed above, plus related gross receipts tax and fees related to it, N.C. Gas Service filed rate schedules which would increase the cost of gas to its customers by 2.2¢ per MCF. These increased rates would increase the revenues paid by North Carolina customers to N.C. Gas Service by $79,925 annually. These increased rates became effective on December 14, 1971, pursuant to the General Statutes and under the Undertaking filed by N.C. Gas Service.

On December 16, 1971, in Docket No. G-3, Sub 46, N.C. Gas Service filed a second application with the Commission in order to increase its rates and charges to recover further increases to it in the cost of gas from Transco and Public

Service. The increases in the cost of gas which N.C. Gas Service is seeking to recover in this docket from its suppliers, Transco and Public Service, are filed to become effective January 15, 1972. These increases have been approved by the Federal Power Commission and the North Carolina Utilities Commission effective January 1, 1972. The increases in cost of gas which N.C. Gas Service is seeking to recover in Docket No. G-3, Sub 46 are listed below:

Transcontinental - CD-2 Rates
(1) Demand charges increased by 4¢ per month per MCF.
(2) Commodity charges increased by 1.3¢ per MCF.

GSS Rates
(1) Demand charges increased by 4¢ per month per MCF.
(2) Commodity charges increased by 1.3¢ per MCF.

PS-2 Rates
(1) Demand charges increased by 2¢ per month per MCF.
(2) Commodity charges increased by 1.3¢ per MCF.

N.C. Gas Service purchases gas from Public Service under a contract which provides for an automatic adjustment in its tariffs to reflect increases in cost of gas purchased from Public Service Company's supplier, Transco.

On August 6, 1971, N.C. Gas Service entered into an agreement with Transco to increase its Storage Demand from 2,200 MCF to 2,650 MCF per day and to increase its Storage Capacity Volume from 116,400 MCF to 140,630 MCF. Although this contract became effective April 1, 1971, the increased charges for this service were not billed until October, 1971.

N.C. Gas Service has also entered into a service agreement with Transco for additional gas under LG-A Rates which became effective November 1, 1971. The agreement provides for 140 MCF maximum daily volume and for 2,540 MCF annually. In addition, N.C. Gas Service has increased its propane air (Peak Shaving) capacity by 1,520 MCF per day.

In order to recover these increases in the cost of gas, N.C. Gas Service has filed revised tariffs to become effective on January 15, 1972, on all bills rendered. These increased rates increase the revenue paid by North Carolina customers to N.C. Gas Service by $73,877. The total amount of the increase in revenue in the two dockets referred to above from its North Carolina customers will increase the revenue of N.C. Gas Service by $153,802 annually.

The North Carolina General Assembly adopted Chapter 1092, Session Laws of 1971, ratified July 21, 1971, North Carolina G.S. 62-133(f) which provides as follows:

"Unless otherwise ordered by the Commission, Subsections (b), (c), and (d) shall not apply to rate changes of utilities engaged in the distribution of natural gas bought at wholesale by a utility for distribution to consumers to the extent such rate changes are occasioned by changes in the wholesale rate of such natural gas. The Commission may permit such rate change to become effective simultaneously with the effective date of the change in the wholesale cost of such natural gas, or at such other time as the Commission may direct. This Subsection shall not prohibit the Commission from investigating and changing unreasonable rates in accordance with the provisions of this Chapter. The public utility shall give such notice, which may include notice by publication, of the changes to interested parties as the Commission in its discretion may direct."

Pursuant to the authority granted above to the Commission by the Legislature, the Commission issued its Order in Docket No. G-100, Sub 14, requiring that certain data as follows, be filed by gas utilities with the Commission for the consideration of increased rate filings solely to recover increases in the cost of gas to a gas utility if approved by the Federal Power Commission.

Pursuant to that Order, N.C. Gas Service filed the following data:

(1) Schedules of N.C. Gas Service rates and charges which N.C. Gas Service is collecting pursuant to the Order of this Commission dated November 19, 1971.

(2) Schedules of N.C. Gas Service proposed rates and charges which N.C. Gas Service seeks to place in effect. Rule R1-17(b)(2).

(3) Statement showing the original cost of all property of N.C. Gas Service used or useful in the public service to which the proposed increased rates relate as of September 30, 1971. Rule R1-17(b)(3).

(4) Statement showing the fair value of all property of N.C. Gas Service used or useful in the public service to which the proposed increased rates relate as of September 30, 1971, together with a statement showing the method used in calculating same. Rule R1-17(b)(4).

(5) Statement of accrued depreciation of all property to which the proposed increased rates relate as of September 30, 1971, and of the rates and methods used in computing the amount charged to depreciation. Rule R1-17(b)(5).

(6) Statement of materials and supplies as of September 30, 1971. Rule R1-17(b)(6).

(7) Statement of cash working capital N.C. Gas Service finds necessary to keep on hand for the efficient, economical operation of its business as of September 30, 1971. Rule R1-17(b)(7).

(8) Statement of gross revenues received, operating expenses, and net operating income for return on investment for the 12 months ended September 30, 1971, as the same appear on the books with adjustments showing the additional costs of gas from its suppliers and the additional expenses, and the rates of return on the original cost rate base and the fair value rate base and earnings on common equity. Rule R1-17(b)(8 & 9).

(9) Balance sheet as at September 30, 1971, and income statement for the 12 months ended September 30, 1971. Rule R1-17(b)(10).

(10) Statement of computations of increase per MCF needed to recover costs associated with increases in N.C. Gas Service's wholesale costs of natural gas.

N.C. Gas Service requests that the Commission consider the filings in these consolidated dockets under G.S. 62-133(f) and under the procedures established by the Commission in Docket No. G-100, Sub 14.

The data as filed was revieved and analyzed by the Commission's Accounting and Engineering Staff and a report of same submitted to the Commission for its consideration.

Notice of the proposed filings in these consolidated dockets was given to the public by N.C. Gas Service inserting a public notice in various newspapers throughout its service areas in North Carolina. These notices were published in these various newspapers, pursuant to the direction of the Commission. Based on the applications as filed and the records of the Commission in these consolidated dockets, the Commission makes the following

FINDINGS OF FACT

1) That Pennsylvania and Southern Gas Company (N.C. Gas Service) is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2) That N.C. Gas Service's rates were increased on all bills on and after December 14, 1971, pursuant to the Undertakings filed and approved by this Commission in order to recover the increases in cost of gas to it from its suppliers as listed herein. (Docket No. G-3, Sub 45)

3) All the increases in the cost of gas contained in the applications in Docket No. G-3, Sub 45, have been approved by the Federal Power Commission or this Commission.

4) N.C. Gas Service is seeking to recover, in Docket No. G-3, Sub 45, increases in all its rates of 2.2¢ per MCF with the exception of Rate Schedule T.X. which is increased by 3.59¢/MCF.

5) The increases in the cost of gas which N.C. Gas Service is seeking to recover in Docket No. G-3, Sub 46, have been approved by the Federal Power Commission in Docket No. RP72-78 effective January 1, 1972. The increases to N.C. Gas Service from Public Service are the result of Public Service's tracking of Transco's increase approved in RP72-78.

6) N.C. Gas Service filed tariffs to recover these increases in cost of gas plus related gross receipts tax to become effective on all bills rendered on and after January 15, 1972.

7) That the rates of return approved by the Commission in the last general rate case (July 26, 1971) and those determined by the Commission in this proceeding are listed below:

	Approved in Docket No. G-3, Sub 42	Docket No. G-3, Sub 46
Return on end-of-period investment	9.80	8.00
Return on equity	14.98	10.27

The return on end-of-period investment and the return on equity in this proceeding have decreased from that found just and reasonable by the Commission in Docket No. G-3, Sub 42, after the adjustment for the proposed increases as applied for herein.

CONCLUSIONS

In accordance with G.S. 62-133(f) the Commission has statutory authority to consider as a separate item increases in the cost of gas to gas utilities in North Carolina occasioned by increases in cost of gas to them from their wholesale suppliers as approved by the Federal Power Commission. The Commission issued a General Order in Docket No. G-100, Sub 14, providing that after review of the data filed by the natural gas utilities as described therein, if the Commission concludes from such review that the filing will not result in an increase in the Company's rate of return over the rate of return most recently approved by the Commission in the last general rate case that the pass-on of the wholesale increased cost of gas would be allowed. The Commission considers the filings and applications herein as complying with G.S. 62-133(f) as allowed to become effective without hearing (except that the portion of the rate increase relating to the increase in the GSS allotment, the new LG-A Service, and the portion of the rate increase relating to the increase in propane air capacity, which the Commission concludes does not fall within the meaning of

G.S. 62-133(f), as an increase occasioned by an increase in the wholesale gas cost and for that reason should be denied).

The Commission concludes that in these consolidated proceedings that the rate of return of N.C. Gas Service has decreased since the last general rate proceeding in Docket No. G-3, Sub 42, which Order was issued on July 26, 1971.

Based on the foregoing Findings of Fact and Conclusions, the Commission is of the opinion that the rate increases filed by North Carolina Gas Service that seeks solely to recover increases in the cost of gas to it from its suppliers as approved by the Federal Power Commission and this Commission should be allowed as a filing pursuant to G.S. 62-133(f) and should be permitted to become effective without hearing and that portion of the rate increase in GSS Service, LG-A Service, and the additional expense in cost of gas resulting from the increase in capacity to produce additional propane air should be denied.

IT IS, THEREFORE, ORDERED:

1) That the tariffs filed by Pennsylvania and Southern Gas Company (North Carolina Gas Service) in Docket No. G-3, Sub 45, which became effective under the Undertaking on all bills on and after December 15, 1971, be, and are, hereby authorized to become effective as filed.

2) That the tariffs affecting the firm rate schedules filed by North Carolina Gas Service, in Docket No. G-3, Sub 46, on all bills on and after January 15, 1972, be denied.

3) That North Carolina Gas Service shall file revised tariffs in Docket No. G-3, Sub 46, applicable to its firm customers reducing the increase in firm rates from $.059 per MCF to $.033 per MCF on all bills on or after January 15, 1972, to be filed with the Commission on one day's notice.

4) That the interruptible tariffs filed by North Carolina Gas Service in Docket No. G-3, Sub 46, be, and are, hereby authorized to become effective on all bills on and after January 15, 1972.

5) That in the event the increases sought by Transcontinental Gas Pipe Line Corporation in the various Federal Power Commission dockets, upon which these rates are based, are reduced or if the effective dates are changed, that North Carolina Gas Service shall immediately file tariffs making corresponding decreases in the tariffs as approved herein or file tariffs changing the effective date to 15 days after the effective date of the approval by the Federal Power Commission.

6) In the event the Federal Power Commission or the Federal Price Commission make changes in the wholesale rates

to North Carolina Gas Service retroactively or if refunds are received from Transcontinental Gas Pipe Line Corporation as a result of regulatory actions, or if producers' refunds flow through to Transcontinental Gas Pipe Line Corporation which are in turn passed on to North Carolina Gas Service, all such refunds and the retroactive portion of any rate change, if any, shall be placed in the restricted account for further orders of this Commission.

7) That the attached Notice, Appendix "A", be mailed to all customers along with the next bill advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
NOTICE

Upon application filed by Pennsylvania and Southern (North Carolina Gas Service), the North Carolina Utilities Commission has approved increase in rates which have been effective under bond by North Carolina Gas Service since December 15, 1971, in the amount of 2.2¢ per Mcf. Upon further application by North Carolina Gas Service, the Commission approved increased rates to become effective on all bills on and after January 15, 1972, in the amount of 3.3¢ per Mcf applicable to its firm rate schedules and 1.4¢ per Mcf on interruptible rate schedules. These increases allow North Carolina Gas Service to recover only the increases in the cost of gas to it from its suppliers, Transcontinental Gas Pipe Line Corporation and Public Service Company of North Carolina, Inc., which increases have been approved by the Federal Power Commission and this Commission.

Pennsylvania and Southern Gas Company,
North Carolina Gas Service Division

DOCKET NO. G-3, SUB 47

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Pennsylvania and Southern	) ORDER DENYING
Gas Company (North Carolina Gas Service	) RATE INCREASES
Division) for an Adjustment of its	) FILED TO BECOME
Rates and Charges and for Approval of	) EFFECTIVE FEB-
Purchased Gas Adjustment Clause	) RUARY 15, 1972

BY THE COMMISSION: On January 12, 1972, Pennsylvania and Southern Gas Company (North Carolina Gas Service) filed with the North Carolina Utilities Commission (Commission) an application in the Docket listed in the caption for authority to increase its rates and charges in order that it might recoup increases in the cost of gas from Transcontinental Gas Pipe Line Corporation (Transco) and for approval of purchased gas adjustment clause.

Based on the application as filed and the other records of the Commission, the Commission makes the following:

FINDINGS OF FACT

1) North Carolina Gas Service is a natural gas company operating in the State of North Carolina subject to the jurisdiction of the North Carolina Utilities Commission.

2) On January 12, 1972, North Carolina Gas Service filed increased rates which it seeks to recover from its customers in Docket No. G-3, Sub 47, $17,376 on an annual basis. This filing results in an increase in each rate to all of its customers of .7 cents per Mcf.

3) Transco on December 29, 1971, in Docket No. RP71-118 filed a tracking rate to recoup curtailment credits pursuant to the settlement agreement approved by the Federal Power Commission on November 15, 1971. This filing by Transco results in an increase in the cost of gas to North Carolina Gas Service of .7 cents per Mcf.

4) Transco in its filing with the Federal Power Commission dated December 29, 1971, (RP71-118) states that it has refunded to its customers the balance in the "Deferred Cost Account" of $3,424,184. North Carolina Gas Service received $11,903.18 of this amount through December 1, 1972. This refund results from the demand charge credits relating to the portion of the curtailment volumes for the period June through November 1971.

5) Transco in accordance with the settlement agreement approved by the Federal Power Commission filed a tracking provision seeking to recover the $3,424,184 it refunded by increasing the rates of the affected rate schedules by .7 cents per Mcf. The .7 cents per Mcf was arrived at by dividing $3,424,184 by the volume of gas delivered under the affected rate schedules which amounted to 464,595,703 Mcf and covers the same period for which the credits were calculated.

Transco under the settlement agreement simply refunded the curtailment credits of $3,424,184 to its customers and then filed a tracking rate in the amount of .7 cents per Mcf to recover these dollars from its customers. The tracking increase of .7 cents per Mcf will terminate when Transco collects from its customers the $3,424,184.

6) Transco will track the demand charge credits for the period December 1971 through April 15, 1972. Transco is authorized under the settlement agreement to file tariffs to recover demand charge credits once each quarter. The tracking of demand charge credits terminates April 15, 1972, in accordance with the settlement agreement.

7) The filing by North Carolina Gas Service in this docket was made under the provisions of G.S. 62-133(f), and it submitted the data required by the Commission in its Order in Docket No. G-100, Sub 14.

Based on the foregoing findings of fact, the Commission arrives at the following:

CONCLUSIONS

The Commission in approving increases in rates occasioned by the increase in the cost of gas to gas distributors in North Carolina pursuant to G.S. 62-133(f) has provided that refunds received by North Carolina distributors be placed in a restrictive account for further orders of the Commission. This provision was inserted in the recently issued North Carolina Gas Service tracking filings in Docket No. G-3, Sub 45 and G-3, Sub 46, issued on January 12, 1972. North Carolina Gas Service has received the amount of $11,903.18 in refunds related to the demand charge curtailments, which were refunded by credit to the cost of gas on the monthly gas bills of North Carolina Gas Service from Transco. The credits cover a six-month period.

The increased rates applied for herein seek to recover from its customers an amount equivalent to the refund made to North Carolina Gas Service, if equated to an equivalent time period. If the Commission authorizes the rates as herein applied for and requires North Carolina Gas Service to refund the refunds received by North Carolina Gas Service from Transco by credits to the gas bill over the same time period, it is obvious that one would tend to cancel the other and that no benefits would accrue to North Carolina Gas Service's customers or to North Carolina Gas Service.

The Commission further believes that on analysis that this increase is not the type of increase in rates contemplated by the Legislature in accordance with G.S. 62-133(f).

The Commission is of the opinion that for the reasons stated herein that the request by North Carolina Gas Service to increase its rates to track the curtailment credits for the demand charge adjustment as filed herein should be denied.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That the application filed by Pennsylvania and Southern Gas Company (North Carolina Gas Service) for authority to increase its rates and charges on January 12, 1972, to

become effective on February 15, 1972, in Docket No. G-3, Sub 47, be, and is hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.
This the 26th day of January, 1972.

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

DOCKET NO. G-3, SUB 48

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Pennsylvania and Southern Gas Company (North Carolina Gas Service Division), Filing of Increased Rates to Recover Increases in Cost of Gas to It from Its Supplier	ORDER APPROVING INCREASED RATES AND ESTABLISHING PROCEDURES TO RECOVER INCREASED COST OF GAS

BY THE COMMISSION: On June 30, 1972, Pennsylvania and Southern Gas Company (North Carolina Gas Service) filed with the North Carolina Utilities Commission (Commission) a Second Amendment to Its Original Petition in Docket No. G-3, Sub 48 for authority to increase its rates by 1.80¢ per Mcf.

This filing was made to recover increases in cost of gas to North Carolina Gas Service from Transcontinental Gas Pipe Line Corporation (Transco). The above increases sought to be recovered by North Carolina Gas Service result from the approval of the interim settlement agreement by the Federal Power Commission in Transco Docket No. RP71-118 on November 15, 1971. These increases in cost of gas from Transco result from the fact that Transco, under its present supply conditions, cannot deliver to North Carolina Gas Service full contract volumes and is not expected to be able to deliver full contract volumes in the foreseeable future.

Transco makes no reduction in the cost of gas for the curtailed volumes and the demand charges related thereto. Under these circumstances North Carolina Gas Service receives less gas but pays the same demand charge which results in an increase in cost of gas to North Carolina Gas Service.

In accordance with the settlement provisions, Transco increased its rates to North Carolina Gas Service effective February 1, 1972, in the amount of .7¢ per Mcf. This increased rate will permit Transco to recover curtailment credits paid to its customers in the amount of $3,424,184.

In Transco's second filing under the settlement agreement, it seeks to recover $6,557,437 covering the curtailment credits for the months of December 1971 and January and February 1972, by increasing its rates by 1¢ per Mcf

effective May 1, 1972, to North Carolina Gas Service and to its other customers, which increased rates will remain in effect until such time as Transco will recover $6,557,437 of curtailment credits paid to its customers plus additional credits for March 1 through April 15, 1972. From April 16, 1972, through November 15, 1972, Transco will make no adjustment in the cost of gas relating to curtailed volumes and the demand charge applicable thereto.

This application was filed pursuant to G.S. 62-133(f) and in accordance with the Commission's Order in Docket No. G-100, Sub 14, which establishes procedures for utilities in order to recover increased cost of gas where occasioned by an increase in wholesale cost of gas from its suppliers.

Based on the data filed by North Carolina Gas Service pursuant to G-100, Sub 14, the Commission makes the following

FINDINGS OF FACT

1) That North Carolina Gas Service is a public utility subject to the jurisdiction of the North Carolina Utilities Commission and authorized to do business in the State of North Carolina.

2) That the increase in cost of gas to North Carolina Gas Service results from the settlement agreement filed by Transco and approved by the Federal Power Commission in Docket No. RP71-118 in which settlement agreement the customers of Transco, in this case North Carolina Gas Service, have received credits to its gas bills through February 1972 and will receive additional credits to April 15, 1972. These demand charge credits will be recovered by Transco through increased rates to North Carolina Gas Service pursuant to the settlement agreement. North Carolina Gas Service, through this transaction, does not recover its increased cost of gas unless it is authorized to collect increased rates.

3) That from April 16 through November 15, 1972, North Carolina Gas Service will continue to pay the demand charge related to curtailed volumes; however, no tracking by Transco of this amount is provided for in the settlement agreement. Said curtailments will result in increased cost of gas to North Carolina Gas Service throughout this period.

4) That the rate of return allowed by this Commission to North Carolina Gas Service in its last general rate of return case, Docket No. G-3, Sub 42 was 9.69 percent on end of the period rate base.

5) That the rate of return earned by North Carolina Gas Service in Docket No. G-3, Sub 48 of 6.34 percent on end of the period rate base had decreased from that found to be

just and reasonable by the Commission in Docket No. G-3, Sub 42.

Based on the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1) That the increase applied for herein by North Carolina Gas Service is an increase in the cost of gas as provided for in G.S. 62-133(f) and should be allowed to become effective pursuant to the procedures established by the Commission in Docket No. G-100, Sub 14.

2) That the rate of return of North Carolina Gas Service has decreased from that found to be just and reasonable by the Commission in Docket No. G-3, Sub 42, the last general rate case, after adjusting for the increased rate applied for and the increased cost of gas from its suppliers.

3) That the amount of increase in cost of gas to North Carolina Gas Service from Transco will vary from month to month depending on the amount of gas curtailed and that in order to enable North Carolina Gas Service to recover only the increased cost of gas to it from its supplier in a uniform and systematic manner, North Carolina Gas Service should be allowed to increase its rates by 1.80¢ per Mcf. In order to assure that North Carolina Gas Service recovers only the increase in cost of gas, North Carolina Gas Service should be required to establish a memoranda account entitled Curtailment Credits for Tracking of Gas Cost (memoranda account) recording as debits all demand charges relating to curtailment volumes for the period provided for in the interim settlement agreement and to credit said memoranda account with the revenues received (less gross receipts tax) by North Carolina Gas Service from a proposed increase in rates to become effective on one day's notice. This proposed increase of 1.80¢ per Mcf applicable to all rate schedules should permit North Carolina Gas Service to recover the increased cost of gas related to curtailment volumes within a reasonable period of time.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That Pennsylvania and Southern Gas Company (North Carolina Gas Service) be allowed to file tariffs increasing all rates by 1.80¢ per Mcf, said tariffs to be filed on one day's notice.

2) That Pennsylvania and Southern Gas Company (North Carolina Gas Service) shall establish a memoranda account entitled Curtailment Credits for Tracking of Gas Cost, recording as debits all demand charges relating to curtailed volumes and crediting to said account the revenues received from the increase in rates as provided herein (less gross receipts tax), until said account approaches a zero balance; and when this account approaches a zero balance,

Pennsylvania and Southern Gas Company (North Carolina Gas Service) shall file on one day's notice revised rate schedules terminating the increase in rates herein granted.

3) That this memoranda account shall be credited with any dollar amount recorded in Account No. 253 that have been accumulated by Pennsylvania and Southern Gas Company (North Carolina Gas Service), as provided for in this Commission's Order in Docket No. G-100, Sub 4.

4) That Pennsylvania and Southern Gas Company (North Carolina Gas Service) shall submit to the Commission its initial entries on its records as provided for herein and further shall submit monthly statements of the transactions in the memoranda account, using sub-account numbers to identify the activity in this account by the Federal Power Commission and the North Carolina Utilities Commission docket numbers.

5) That this Order shall remain open for such further orders of the Commission as may be required.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of July, 1972.

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

DOCKET NO. G-3, SUB 48

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Pennsylvania and Southern Gas Company (North Carolina Gas Service Division) for an Adjustment of Its Rates and Charges	))))	ORDER ALLOWING PARTIAL INCREASES IN RATES AND CHARGES

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on July 25, 1972

BEFORE: Chairman Marvin R. Wooten, Presiding, Commissioners John W. McDevitt, Hugh A. Wells, and Miles H. Rhyne

APPEARANCES:

For the Applicant:

James T. Williams, Jr.
McLendon, Brim, Brooks, Pierce and Daniels
Attorneys at Law
P. O. Drawer U, Greensboro, North Carolina

For the Commission Staff:

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

No Protestants

BY THE COMMISSION: Pennsylvania and Southern Gas Company (North Carolina Gas Service Division) hereinafter referred to as "Applicant" filed with the Commission on February 29, 1972, an Application seeking authority to adjust and increase its rates and charges by approximately 8.36 percent which results in an annual increase in revenue to the Applicant of approximately $211,000. The increase was sought to be made effective on bills on and after April 1, 1972.

By Order issued by the Commission on March 9, 1972, the Commission suspended the rates applied for, ordered an investigation into the justness and reasonableness of the rates and established the test period as the 12-month period ending March 31, 1972, to be used by the Company, the Commission staff, and other parties in preparing schedules, audits, and other exhibits. That Order further declared the Application in this cause to be a general rate case under the provisions of G.S. 62-133 and ordered the Company to comply with G.S. 62-133 and Rule R1-17 and R1-24 of the Commission's Rules and Regulations.

On May 12, 1972, the Applicant filed an Amended Petition and Motion for Leave to Amend in which the Applicant seeks to recover additional increases in the cost of gas and additional increases in the cost of doing business.

By Order issued June 6, 1972, the Commission allowed the Amendment, required Notice to the Public, and suspended the increased rates.

On July 5, 1972, the Commission extended the time to July 15, 1972, for filing staff exhibits in this Docket.

On June 30, 1972, Applicant filed a Second Amendment to its Petition in which it seeks to track increased rates relating to the demand charges related to curtailed volumes from its supplier, Transcontinental Gas Pipe Line Corporation (Transco) in the amount of 1.8¢ per Mcf.

On July 19, 1972, the Commission allowed the tracking of increased cost of gas as applied for by the Applicant in the Second Amendment in the amount of 1.8¢ per Mcf and further established an accounting procedure to be followed by North Carolina Gas Service to permit it to recover only the demand charges related to the curtailment volumes. The Order further provided monthly statements to be filed with the Commission accounting for these entries.

The Application in this cause was called for hearing on July 25, 1972. No one appeared at the hearing to protest the Applications.

SUMMARY AND ANALYSIS OF EVIDENCE

General

Pennsylvania and Southern Gas Company is incorporated under the laws of the State of Delaware and is domesticated and doing business in the State of North Carolina. The Company's principal office is located at 103 South Elmer Avenue, Sayre, Pennsylvania. Pennsylvania and Southern's North Carolina Gas Service Division is an operating Division of Pennsylvania and Southern Gas Company and it is engaged in the distribution of natural gas in the towns of Reidsville, Eden, Madison, Mayodan, and other rural areas in Rockingham County. In addition, the Division serves industries and rural areas in Beaver Dam Township in Stokes County. The area served by this Company has an aggregate population of approximately 94,000 people at the present time. The North Carolina Gas Service Division had 7,921 natural gas customers at March 31, 1972. The operating revenues derived from the sale of natural gas for the 12 months ended March 31, 1972, were approximately 43 percent from residential customers, 12 percent from commercial customers, 6 percent from firm industrial customers and 39 percent from industrial interruptible customers. The distribution system maintained by North Carolina Gas Service contains approximately 290 miles of pipe ranging in size from two to eight inches in diameter. From December 31, 1960, to March 31, 1972, the average number of customers served by North Carolina Gas Service increased from 2,586 to 7,711 or an increase of 198 percent. Mcf sales increased from 1,416,671 Mcf to 3,227,428 Mcf of natural gas representing an increase of 128 percent.

The last general rate case of North Carolina Gas Service was during the year 1961, Docket No. G-3, Sub 20. Since 1961, North Carolina Gas Service has reduced rates to its customers five times. Beginning on July 26, 1971, through March 31, 1972, Transcontinental Gas Pipe Line Corporation, the only supplier which supplies gas to North Carolina Gas Service, has increased the cost of gas to North Carolina Gas Service six times. In addition to these increases in cost of gas, most of which have been passed on to consumers through procedures established by this Commission, the Company has experienced an increase in cost of labor, materials, supplies, taxes and insurance; an increase in government controls requiring additional personnel; and more record keeping and reporting, all of which have increased the cost of doing business.

North Carolina Gas Service along with other gas utilities in North Carolina have been experiencing curtailment of its gas supplies from Transcontinental. Previous to this natural gas shortage, North Carolina Gas Service has been

able to increase the quantities of gas for sales thereby increasing its growth rate and sales base to offset rising costs. Since February 1961, North Carolina Gas Service's investment in plant has increased from $1,839,038 to $4,435,744 at March 31, 1972, an increase of 151 percent.

North Carolina Gas Service's Revenues under Present and Proposed Rates

North Carolina Gas Service estimates its revenues under present rates to be $2,432,277. The Staff estimates these revenues to be $2,428,451, a difference of $3,826. This difference comes about by two adjustments. A booking of an error to revenue of $770 and an adjustment between the calculation for temperature adjustment of $3,056 making a total of $3,826. The Company agreed that the Staff's calculations were correct and therefore the Commission feels that the $2,428,451 figure used by the Staff is appropriate for the revenue at present rates. The Company estimated that its revenues after the filed for increase would be $2,709,277. The Staff figure was $2,668,288. The Company admitted that the Staff figures, being based on a more detailed study would be more accurate. The Commission has determined that North Carolina Gas Service is entitled to an additional $175,294 in gross revenues from which it determines the probable future revenues to be $2,603,745 based on end of period customers. The rates determined to produce this additional revenue and the revenue calculations are attached to this Order marked Appendix No. 1 and Appendix No. 2.

Operating Revenue Deductions

The Company estimated that its total operating revenue deductions would be $2,256,537. The Staff estimates that it would be $2,245,753, a difference of $11,774. This difference comes about primarily by the elimination of $26,815 relating to cost of gas applicable to curtailed volumes which the Commission had permitted the Company to recover through tracking increases but was included in the expenses of the Company because the Commission had not approved the tracking at the time of the preparation of the Staff's exhibits. In addition, a $791 error relating to the demand charges of CD-2 and PS-2 projected on an annual basis was corrected. Another $2,331 booked during the test period but was applicable to a prior period was eliminated. One hundred ninety-nine dollars was booked wrong by the Company. These adjustments amount to $23,892 after giving effect to gross receipts tax and State and Federal income taxes. This reduces the Company's total operating revenue deductions to the Staff figure of $2,245,753. The total operating revenue deductions determined by the Commission after applying the allowed rates is $2,342,087 which the Commission determines are the reasonable operating expenses including depreciation. Subtracting the total operating revenue deductions of $2,342,087 from the gross operating revenues of $2,603,745 results in net operating revenues of $261,658

to which the Staff added an annualization factor to reflect increases in net operating revenues due to customers being added during the period of 1.07 percent or $2,800. Adding this to the net operating revenue results in net operating income for return of $264,458.

Original Cost Less Depreciation Reserve and Contributions

The Company and the Commission Staff determined that the original cost of plant devoted to public service at the end of the test period was $4,435,744 from which was deducted accumulated provisions for depreciation in the amount of $1,323,104 and contributions in aid of construction of $253,201 making a total reserve and contributions of $1,576,305 leaving a net investment in gas utility plant of $2,859,439. The difference between the Staff and the Company figure was $770. The Commission finds the original cost of N.C. Gas Service's plant devoted to public use depreciated to be $2,859,439.

Allowance for Cash Working Capital

The Company and Commission Staff estimated that the materials and supplies on hand at the end of the period were $69,097 and estimated that cash requirements of the Company based on the formula of 1/8 of operating expenses excluding cost of gas plus minimum bank balance was $118,314. The difference between the Company's figure and the Staff's figure was $43. The Company contended that it was entitled to an additional $95,516 because the Commission's Order in M-100, Sub 39 extended the period of time for payment of bills by customers. The Company estimates that its average tax accruals during the period were $77,954. The Commission Staff determined that tax accruals were $120,884. The difference between these two figures was because the Staff had included State income tax accruals as well as Federal income tax accruals. The Staff also included average customers' deposits of $33,804.

The Commission in the past had utilized all accruals received from State and Federal income taxes and customer deposits to offset the materials, supplies and cash required by the Company determined as 1/8 of operating expenses excluding cost of gas but including minimum bank balances. The Company put on no evidence to show that this formula produced inequitable results; therefore, the Commission concludes that the allowance for working capital based on the method employed by the Staff is reasonable. This method, after the increases allowed, results in working capital allowance of $38,419 which the Commission concludes is reasonable.

Net Investment in Gas Utility Plant Plus Allowance for Working Capital

The net investment in utility plant of $2,859,439 plus allowance for working capital of $32,723 is $2,897,858.

Rate of Return on Net Original Cost Plus Allowance for Working Capital

The net operating income for a return as determined by the Commission above was $264,458. Equating this to the net original cost rate base at end of period plus allowance for working capital $2,897,858 produces a ratio of 9.13 percent. Appendix 3 attached to this Order is a schedule reflecting the above determinations.

Fair Value Capital Structure of North Carolina Gas Service

The capital structure of North Carolina Gas Service giving effect to the fair value herein in light of recent Supreme Court decisions is shown on Appendix No. 4 attached to this order and results in fair value equity capital of $1,984,637 and if equated to the amount available for common equity of $177,899 results in a return on the fair value common equity of 8.96 percent after the proposed increase granted herein.

Service Adequacy

North Carolina Gas Service's present customers are receiving adequate service. This is borne out by the records of the Commission and lack of service complaints and interventions in this proceeding; however, while service to existing customers is good, the Company has filed a restrictive sales program with this Commission under which it has limited the types of customers it will serve so that it is offering limited service to new customers at this time.

Price Commission

The Utilities Commission has adopted rules and regulations to recognize the criteria for price regulation under the National Economic Stabilization Act as a certificated regulatory Commission under the rules of the Federal Price Commission 6 Code of Federal Regulations, §300.16a, and has published its rules and regulations pursuant thereto in Chapter 13 of the Utility Commission's Rules and Regulations. The criteria and policies of the Price Commission, as adopted in said Chapter 13 of the Utility Commission's Rules, have been considered by the Commission, and the Commission finds as follows:

1) Each of the expenses found reasonable in this proceeding is an actual expense in effect at the time of the hearing in this proceeding and none are based on predictions of any future increases in inflation.

2) The increase granted is the minimum required to assure continued, adequate and safe service or to provide for necessary expansion to meet future requirements. The needed additions to the North Carolina Gas Service plant require substantial additional capital investment, and without the increases approved here, the Commission finds

that North Carolina Gas Service could not compete in the capital market for necessary funds for such necessary improvements.

3) The increase will achieve the minimum rate of return needed to attract capital at reasonable cost and not to impair the credit of North Carolina Gas Service. The evidence is clear that the 8.96 percent rate of return on fair value equity of N.C. Gas Service is essential under present economic conditions as a fair return on equity.

4) The increase does not reflect labor cost in excess of those allowed by the Federal Price Commission policies.

5) The test period method utilized by the Commission in this hearing, with no adjustments for future increases in expenses and adjusting only for known changes in expenses and revenues, has, in effect, measured the actual productivity gains which have been achieved by the Company in the test period fixed in this proceeding.

6) The procedures of the Utilities Commission provide for reasonable opportunity for participation by all interested persons or their representatives in this proceeding, and due public notice was given of the time and place of hearing.

Cost of Service

The Staff submitted a cost of service study and competitive fuels analysis from which the Commission concludes that the increased rates allowed are fair and equitable as between the various classes of users purchasing service from North Carolina Gas Service.

Based on the testimony and exhibits introduced in this proceeding and as discussed herein, the Commission makes the following

FINDINGS OF FACT

1) That the present rates being charged by North Carolina Gas Service to its residents for gas service are unjust and unreasonable.

2) That Pennsylvania and Southern Gas Company (North Carolina Gas Service Division) is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

3) That the estimated probable future revenue based on the approved rates determined by the Commission at the end of the test period is $2,603,745.

4) That North Carolina Gas Service's reasonable operating revenue deductions are $2,342,087, including depreciation.

5) That North Carolina Gas Service has a net original cost investment in gas utility plant at the end of the test year of $2,897,439 which includes an allowance for working capital of $38,419.

6) That net operating income for return is $264,458 which related to the net original cost of utility plant of $2,897,858 produces a ratio to the net original cost of plant of 9.13 percent.

7) That the replacement cost of the property of North Carolina Gas Service including total allowance for working capital of $38,419 is $4,000,000.

The General Statutes [G.S. 62-133(b)(1)] provide, in part, that replacement cost may be determined by trending such reasonable depreciated cost to current cost levels or by any other reasonable method. The Commission interprets "replacement cost" to be the cost of reconstructing the utility plant in accordance with modern design and techniques, incorporating the most up-to-date changes in the state of the art in natural gas transmission, distribution, and storage facilities. On the other hand, "replacement cost" or "trended original cost", as presented by the Company, is founded on the premise that, if destroyed, the plant would be rebuilt in the same manner that it was constructed years ago; and further, that the plant would be utilized in the same way. Consequently, replacement cost envisions a higher level of evidence than that of reproduction cost alone. Accordingly, if the trended cost study of the Company in this proceeding is to be accepted as compelling and reliable evidence of replacement cost, it must be based on reasonable methodology. While the trending of the plant on a piece for piece basis offers some evidence of replacement cost, the various major plant accounts must be considered individually in terms of advancements in the art and whether the facilities could be installed and utilized more efficiently and economically if constructed today as opposed to the plant as it was designed and installed in the past. The level of replacement cost is also influenced by the condition of the plant as judged from the adequacy of service standpoint and increased maintenance. In this particular case, for the reason discussed herein, no deductions were made in the findings of replacement cost for reasons of inadequate service. The Company estimated its replacement cost by trending the original cost of plant to current cost levels by use of the Handy-Whitman Index of Public Utility Construction Cost for December 1971 for the South Atlantic Division which includes data from North Carolina. This determination resulted in trended value cost of $7,652,033 from which the Company deducted reserve for depreciation of $2,721,940 and contribution in aid of construction of $253,201, resulting in net trended utility plant of $4,676,892 to which the Company added materials and supplies of $669,097 and allowance for cash working capital of $152,938 which resulted in the Company's net trended value rate base at the

end of the period of $4,898,927. The trended original cost study submitted by the Company has several deficiencies. It reflects the indices developed by Handy-Whitman, which includes costs other than Pennsylvania & Southern's own actual current construction cost of installing gas facilities; therefore, it is influenced by higher cost of installing natural gas facilities in the larger metropolitan areas. The study further reflects duplication of facilities whereby the Company had to install a second line along the same street in order to provide additional service. The study does not recognize the economies that would result from North Carolina Gas Service's utility plant being constructed under one large contract at one time as opposed to isolated construction over several years. It does not recognize the changes in the art for reasons of improved materials permitting higher pressure system utilization. The study does not reflect efficiencies which could be brought about by the plant being built today for the service it is rendering to the present customers. For these reasons, the Commission finds the replacement cost of North Carolina Gas Service's property devoted to public use in North Carolina to be $4,000,000.

8) That the fair value capital structure of North Carolina Gas Service at the end of the test year was composed of 40.23 percent first mortgage bonds, 2.26 percent debentures, 3.49 percent notes payable, 4.90 percent interest free capital and 49.12 percent fair value equity capital.

9) That the fair value rate base of North Carolina Gas Service devoted to public use is $3,400,000. The Commission finds that the fair value of North Carolina Gas Service's property used and useful in providing gas service to the public in North Carolina considering the reasonable original cost of property less depreciation reserve, the replacement cost of said property and the condition of the property as discussed above; finds that the fair value of said plant should be derived by giving equal weight to the original cost and replacement cost. The Commission finds that the fair value of North Carolina Gas Service's plant devoted to service in North Carolina is $3,400,000, which figure includes $38,419 as an allowance for cash working capital.

10) That the fair rate of return is 7.78 percent on the fair value rate base.

11) This requires an increase in rates to produce $175,294 of additional annual revenue and results in net operating income for return of $264,458 and amount available for common equity of $177,899 and when related to the fair value common equity capital at the end of the test year of $1,984,637 results in a return on fair value common equity of 8.96 percent.

12) That the Rules, contained in Chapter 13, Price Commission, which Rules have been filed and approved by the Price Commission on July 13, 1972, have been complied with.

13) That the tariffs approved in this Docket must be increased in the amount of 1.8¢ per Mcf which is the amount heretofore approved by the Commission to track demand charges related to curtailed volumes.

14) That the rates approved herein are just and reasonable and are nondiscriminatory as between the various classes of service.

Based on the foregoing findings of fact the Commission arrives at the following

CONCLUSIONS

1) That the rates approved herein for Pennsylvania and Southern (North Carolina Gas Service) will produce a fair rate of return of 7.78 percent on the fair value of North Carolina Gas Service's property ($3,400,000) located in North Carolina and will permit the Company to attract capital on reasonable terms and will permit the company to recover its reasonable operating expenses including depreciation and will result in a return to the equity holders of 8.96 percent on the fair value common equity at the end of the test year.

2) That the Commission is further of the opinion that the rates approved and results thereof meet the requirements of Chapter 13, Price Commission, of the Commission's Rules and Regulations, which rules have been approved by the Price Commission.

3) That the rates approved are just and reasonable as between the various classes of customer of North Carolina Gas Service.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That Pennsylvania and Southern Gas Company, North Carolina Gas Service Division, shall file effective on one day's notice tariffs listing the proposed rates as shown in Appendix No. 1 of this Order, which schedules include an amount of 1.8¢ per Mcf to recover demand charge adjustments relating to curtailed volumes as previously authorized by this Commission in this Docket.

2) That when North Carolina Gas Service collects the demand charges related to curtailed volumes, as entered in the Memorandum Account as provided for by this Commission's Order issued July 19, 1972, that it will file immediately on one day's notice reduced rates reflecting the decrease of 1.8¢ per Mcf to all its rate schedules.

3) That the Commission's Order dated July 19, 1972, in this Docket shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 20th day of November, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Docket No. G-3, Sub 48
Appendix No. 1

SCHEDULE "A"
GENERAL RESIDENTIAL SERVICE RATE

Rate

First	600 cubic feet or less per month	$1.76
Next	9,400 cubic feet per month per 100 cu. ft.	.1209
All over	10,000 cubic feet per month per 100 cu. ft.	.1045

Minimum Monthly Bill $1.76

Summer Air Conditioning - May through September

When a residential customer uses gas for air cooling in the summer, all gas used over 4,000 cu. ft. per month for any purpose during the period May 1 through September 30 will be billed at $.0779 per hundred cu. ft.

All gas billed prior to May 1, and after September 30, including gas used for air conditioning, will be billed at the rates provided for general purposes as set forth herein.

The above rates and charges are subject to the monthly minimum set forth hereafter.

SCHEDULE "A-1"
MULTIPLE DWELLING SERVICE RATE

Rate

All gas delivered per Ccf per Month .1104

Monthly Minimum Charge

The minimum monthly charge is $37.02

SCHEDULE "A-3"
SCHOOL HEATING RATE

Rate

All gas at $.0969 per 100 cubic feet

SCHEDULE "A-4"
OPTIONAL OUTDOOR LIGHTING SERVICE RATE

Rate

Per Mantle	Per Month	$ 2.30

SCHEDULE "C"
GENERAL COMMERCIAL SERVICE RATE

Rate

First	1,000 cubic ft. per month per 100 cu. ft.		$.3399
Next	9,000 cubic ft. per month per 100 cu. ft.		$.1480
Next	30,000 cubic ft. per month per 100 cu. ft.		.1372
All over	40,000 cubic ft. per month per 100 cu. ft.		.1155

Minimum Monthly bill $3.40

Summer Air Conditioning

When a commercial customer uses gas for air cooling in the summer, all gas used for this purpose shall be measured by separate meter provided by the Company and shall be billed at $.0779 per hundred cubic feet.

The above rates and charges are subject to the monthly minimum of this schedule.

SCHEDULE "E-1"
INDUSTRIAL SERVICE RATE

Rate

First	50,000 cubic feet per month per 100 cu. ft.		$.2054
Next	50,000 cubic feet per month per 100 cu. ft.		.1402
Next	300,000 cubic feet per month per 100 cu. ft.		.1023
All over	400,000 cubic feet per month per 100 cu. ft.		.0860

Minimum Monthly bill $90.28

SCHEDULE "F"
INTERRUPTIBLE SERVICE RATE

Rate
All cubic feet of gas $.0622 per hundred cubic feet

Minimum Monthly Bill

The minimum bill shall not be less than twenty-five percent of the previously rendered maximum monthly bill during the immediately prior twelve-month period, but not exceed $400.00.

The minimum monthly bill shall be subject to proration in the event of curtailment or complete interruption of gas to the customers by the Company and shall be waived during any period of the interruption as provided in the contract for conditions beyond control of customer or Company.

SCHEDULE "G"
INTERRUPTIBLE CERAMIC SERVICE RATE

Rate
First 60,000 Mcf of gas used per month at 55.20 cents per Mcf
All gas used over 60,000 Mcf per month at 49.76 cents per Mcf

Monthly Minimum Bill

Minimum Monthly Bill $133.13

SCHEDULE "H"
STORAGE GAS

Rate
All storage gas at 108.4 cents per 1,000 cu. ft.

SCHEDULE "I"
LARGE VOLUME INTERRUPTIBLE SUMMER GAS

Rate
All gas supplied hereunder at 43.25 cents per thousand cu. ft.

Minimum Monthly Bill

The minimum monthly bill to be paid by the Customer will be the cost of twenty million (20,000,000) cubic feet per month at the rate in effect at the time of billing. The minimum monthly bill shall be subject to proration in the event of curtailment or complete interruption of gas by the Company, and shall be waived during any period of the interruption as provided in the contract for conditions beyond the control of Customer or Company.

SCHEDULE "J"
EXCESS GAS SERVICE TO PRIVATE PUBLIC UTILITY COMPANIES

Rate
All gas delivered from November 1 through April 30 - 100 percent load factor cost plus 29%

All gas delivered from May 1 through October 31 - commodity cost plus 29%

SCHEDULE T.X.
LARGE VOLUME EXCESS GAS SERVICE - TEMPORARY

Rate
All gas supplied hereunder at 49.20 cents per thousand cubic feet (1Mcf).

Minimum Monthly Bill

The minimum monthly bill to be paid by the consumer will be the cost of thirty thousand (30,000) Mcf in each of the months of June, July, August and September at the rate in effect at the time of billing. In the event of curtailment

or interruption of service by the Company, the minimum monthly bill shall be proportionally reduced.

Docket No. G-3, Sub 48
Appendix No. 2

REVENUE CALCULATIONS
BASED ON APPROVED RATES

Schedule "A" Residential	83,435	Bills @ $1.76	=	$ 146,846
	48,881	Mcf in Minimum		
	412,264	Mcf @ $1.191	=	$ 491,006
	461,146	Mcf @ $1.027	=	473,597
				$1,111,449
Schedule "A-1" (Multiple Dwelling)	5,715.8	Mcf @ $1.086	=	$6,208
Schedule "A-3" Schools	24,390.1	Mcf @ $ .951	=	$23,195
Schedule "C" Commercial	8,487	Bills @ $ 3.40	=	$28,856
	7,540	Mcf in Minimum		
	37,814	Mcf @ $1.462	=	$ 55,284
	49,180	Mcf @ $1.354	=	66,590
	124,042	Mcf @ $1.137	=	141,036
				$291,766
Schedule "E-1" Industrial	130	Bills @ $90.28	=	$ 11,736
	5,645	Mcf in Minimum		
	806	Mcf @ $2.036	=	$ 1,641
	5,806	Mcf @ $1.384	=	8,036
	29,675	Mcf @ $1.005	=	29,823
	119,343	Mcf @ $ .842	=	100,487
				$151,723
Schedule "F" (Interruptible)	607,768.2	Mcf @ $ .604	=	$367,092
Schedule "G" Ceramic Interruptible	438,266.4	X $ .534	=	$ 234,034
	41,387.6	X $1.066 (Sch. "H") (Storage Gas)	=	44,119
				$ 278,153
Schedule "I" Large Volume Interruptible	143,770	Mcf X $.4145	=	$ 59,593
Schedule "T.X."	663,988	Mcf X $.474	=	$ 314,730
				$2,603,908

NORTH CAROLINA GAS SERVICE
DIVISION OF PENNSYLVANIA AND SOUTHERN GAS COMPANY
DOCKET NO. G-3, SUB 48
FINANCIAL AND OPERATING DATA -
TEST PERIOD ENDED MARCH 31, 1972

	After Accounting and Pro Forma Adjustments	Proposed Rate Adjustments	After Proposed Rate Adjustments
Operating Revenues			
Gross operating revenues	$2,428,451	$175,294	$2,603,745
Operating Revenue Deductions			
Cost of purchased gas	1,468,931		1,468,931
Other operation and maintenance expenses	378,236	3,238	381,474
Depreciation expenses	130,121		130,121
Amortization expenses	9,408		9,408
Taxes - other than income	192,469	10,518	202,987
Taxes - State income	4,385	9,692	14,077
Taxes - Federal income	31,188	72,886	104,074
Income taxes - deferred accelerated depreciation	30,334		30,334
Investment tax credit - normalization	4,218		4,218
Investment tax credit - amortization	(3,537)		(3,537)
Total operating revenue deductions	2,245,753	96,334	2,342,087
Net operating revenues	182,698	78,960	261,658
Add: Annualization factor - 1.07%	1,955	845	2,800
Net operating income for return	$ 184,653	$ 79,805	$ 264,458

( ) Denotes negative amount

	After Accounting and Pro Forma Adjustments	Proposed Rate Adjustments	After Proposed Rate Adjustments
Investment in Gas Utility Plant			
Utility plant in service	$4,435,744	$	$4,435,744
Less: Reserves and contributions			
accumulated provision for depreciation	1,323,104		1,323,104
Contributions in aid of construction	253,201		253,201
Total reserves and contributions	1,576,305		1,576,305
Net investment in gas utility plant	2,859,439		2,859,439
Allowance for Working Capital			
Materials and supplies	69,097		69,097
Cash (1/8 of operating expenses excluding cost of gas plus minimum tank balance)	117,754	405	118,159
Less: Average tax accruals	97,857	(7,176)	115,033
Average customer deposits	33,804		33,804
Total allowance for working capital	55,190	$(16,771)	$2,897,858
Net investment in gas utility plant plus allowance for working capital	$2,914,629	$(16,771)	$2,897,858
Rate of return - percent	6.34		9.13

( ) Denotes negative amount

Docket No. G-3, Sub 48
Appendix No. 4

NORTH CAROLINA GAS SERVICE
DIVISION OF PENNSYLVANIA AND SOUTHERN GAS COMPANY
RETURN ON EQUITY - TEST PERIOD ENDED MARCH 31, 1972

	Before Proposed Rate Increase	After Proposed Rate Increase
Net operating income for return Schedule I	$ 184,653	$ 264,458
Add: Other income adjusted	36,571	36,571
Deduct: Miscellaneous income deductions adjusted	7,468	7,468
Amount available for fixed charges	213,756	293,561
Fixed charges	115,662	115,662
Times fixed charges earned	1.85	2.54
Amount available for common equity	98,094	177,899
Common dividends	97,467	97,467
Times common dividends earned	1.01	1.83
Fair value common equity capital	1,984,637	1,984,637
Fair value earnings on common equity - percent	4.91	8.96

Docket No. G-3, Sub 48
Appendix No. 4

NORTH CAROLINA GAS SERVICE
DIVISION OF PENNSYLVANIA AND SOUTHERN GAS COMPANY
FINANCIAL DATA - CAPITAL STRUCTURE
AT MARCH 31, 1972

Total Division - North Carolina Gas Service

Type of Capital	Amount	Percent of Total	Interest and Dividend Requirement
First Mortgage Bonds			
5-1/4% due 1979	$ 154,968		$ 8,136
6% due 1979	178,448		10,707
6% due 1983	96,738		5,804
5-1/4% due 1989	264,854		13,905
5-3/8% due 1991	367,110		19,732
8% due 1996	563,520		45,082
Total first mortgage bonds	1,625,638	40.23	103,366
Debentures			
6% due 1976	91,102		5,466
5-1/2% due 1981	376		21
Total debentures	91,478	2.26	5,487

Notes Payable			
6% temporary bank loan	46,960		2,348
5-1/2% temporary bank loan	93,920		4,461
Total notes payable	140,880	3.49	6,809
Interest-Free Capital			
Deferred federal income taxes and investment credit	198,101	4.90	
Equity Capital			
Common stock - 235,814 shares	138,448		97,467
Premium on common stock	300,364		
Other capital surplus	40,590		
Unappropriated earned surplus	1,505,235		
Total equity capital	1,984,637	49.12	97,467
Total capitalization	$4,040,734	100.00	$213,129

DOCKET NO. G-3, SUB 49

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Pennsylvania and Southern Gas Company (North Carolina Gas Service Division) for an Adjustment of Its Rates and Charges	)	ORDER APPROVING TRACKING INCREASE

BY THE COMMISSION: On November 8, 1972, Pennsylvania and Southern Gas Company (North Carolina Gas Service) filed an application with the North Carolina Utilities Commission in Docket No. G-3, Sub 49, in which it seeks to increase its rates to its customers in order that it might recover increases in the cost of gas to it from its wholesale supplier, Transcontinental Gas Pipe Line Corporation (Transco). In this instant filing North Carolina Gas Service is seeking to recover an increase in the cost of gas to it of .8¢ per MCF effective December 8, 1972. This increase of .8¢ per MCF is composed of .2¢ per MCF increase which represents increase in the cost of gas to Transco from its suppliers. Six-tenths of a cent per MCF represents unrecovered gas cost which Transco has incurred and which Transco is seeking to recover pursuant to the settlement agreement approved by the Federal Power Commission (FPC) under Docket No. RP71-118. The .6¢ per MCF increase in the cost of gas will be collected for a period of approximately twelve months or until Transco has recovered its unrecovered gas cost of $5,443,902 and at that time the rate to North Carolina Gas Service will be reduced by Transco accordingly.

In Docket No. RP71-118 Transco proposed to reduce its rates due to the elimination of the curtailment tracking increases. This reduction will not affect North Carolina

Gas Service's rates until North Carolina Gas Service recovers all increases relating to curtailment as authorized by this Commission in Docket No. G-3, Sub 48, at which time North Carolina Gas Service is required to reduce its rates as required by order of this Commission.

The increase in rates sought by North Carolina Gas Service in this docket is .86¢ per MCF (.8¢ per MCF cost of gas increase plus related gross receipts tax and increased insurance expenses) and will result in an annual increase in cost of gas to North Carolina Gas Service's customers of $27,907.

The North Carolina General Assembly adopted Chapter 1092 Session Laws of 1971, ratified July 21, 1971, North Carolina G.S. 62-133(f) which provides as follows:

"Unless otherwise ordered by the Commission, Subsections (b), (c) and (d) shall not apply to rate changes of utilities engaged in the distribution of natural gas bought at wholesale by a utility for distribution to consumers to the extent such rate changes are occasioned by changes in the wholesale rate of such natural gas. The Commission may permit such rate change to become effective simultaneously with the effective date of the change in the wholesale cost of such natural gas, or at such other time as the Commission may direct. This Subsection shall not prohibit the Commission from investigating and changing unreasonable rates in accordance with the provisions of this Chapter. The public utility shall give such notice, which may include notice by publication, of the changes to interested parties as the Commission in its discretion may direct."

Pursuant to the authority granted above to the Commission by the Legislature, the Commission issued in Docket No. G-100, Sub 14, requiring certain data as follows to be filed with the Commission for the consideration of increased rates filed solely to recover increases in the cost of gas to a gas utility company in this State if approved by the Federal Power Commission.

Pursuant to that order North Carolina Gas Service filed the following data:

1) Schedules of Petitioner's present and proposed rates and charges.

2) Statement showing the original cost of all property used or useful in the public service to which the proposed increased rates relate as of March 31, 1972.

3) Statement showing the fair value of all property used or useful in the public service which the proposed increased rates relate as of March 31, 1972, together with a statement showing the method used in calculating same.

4) Statement of Accrued Depreciation on all property to which the proposed increased rates relate as of March 31, 1972, and of the rates and methods used in computing the amount charged to depreciation.

5) Statement of materials and supplies as of March 31, 1972.

6) Statement of cash working capital Petitioner finds necessary to keep on hand for the efficient economical operation of its business.

7) Statement of gross revenues received; operating expenses and net operating income for return on investment for the twelve months ended March 31, 1972; the rates of return on the net original cost rate base and the trended fair value rate base; the additional annual gross revenue which the proposed increase in rates and charges will produce; the annual additional gross revenues; the net additional revenue which the proposed rates will produce; and the rate of return which Petitioner estimates it will receive on the net original cost rate base and on the trended fair value rate base after giving effect to the proposed increases in rates.

8) Balance sheet as at March 31, 1972.

9) Income statement for the twelve months ended March 31, 1972.

10) Computed return on equity capital, FPC approval of Transco increase dated September 20, 1972.

The data as filed was reviewed and analyzed by the Commission's Accounting and Engineering Staff and a report of same submitted to the Commission for its consideration.

Notice of the proposed filing in this docket was given to the public by North Carolina Gas Service inserting a public notice in various newspapers throughout its service area in North Carolina.

Based on the application as filed and the records of the Commission in this docket, the Commission makes the following

FINDINGS OF FACT

1) That Pennsylvania & Southern Gas Company (North Carolina Gas Service) is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2) That the increase in the cost of gas which North Carolina Gas Service is seeking to recover in Docket No. G-3, Sub 49, has been approved by the Federal Power Commission effective October 1, 1972.

3) That North Carolina Gas Service proposes to recover this increase in the cost of gas, related gross receipts tax, and increased insurance expenses to become effective on all meters read on and after December 8, 1972. All tariffs will be increased by .86¢ per MCF.

4) That the rate of return and return on equity as approved by the Commission in Docket No. G-3, Sub 48, which order was issued on November 20, 1972, will not be changed by approval of the proposed increase applied for herein.

CONCLUSIONS

In accordance with G.S. 62-133(f) the Commission has statutory authority to consider as a separate item increases in the cost of gas to gas utilities in North Carolina occasioned by increases in cost of gas to them from their wholesale supplier as approved by the Federal Power Commission. The Commission issued a general order in Docket No. G-100, Sub 14, providing that after review of the data filed by the natural gas utilities as described therein, if the Commission concludes from such review and analysis that the filings will not result in an increase in the company's rate of return over that most recently approved by the Commission, that the pass-on of the wholesale increased cost of gas will be allowed.

The Commission considers the filings and applications herein as complying with G.S. 62-133(f) as allowed to become effective without hearing.

The Commission concludes that in this proceeding the rate of return of North Carolina Gas Service will not change from the last general rate proceeding in Docket No. G-3, Sub 48, which order was issued on November 20, 1972.

Based on the foregoing Findings of Fact and Conclusions, the Commission is of the opinion that the rate increase as filed by North Carolina Gas Service that seeks solely to recover increases in the cost of gas to it from its supplier as approved by the Federal Power Commission should be allowed as a filing pursuant to G.S. 62-133(f) and should be permitted to become effective without hearing.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That Pennsylvania and Southern Gas Company (North Carolina Gas Service) be, and is hereby, authorized to increase all rate schedules by .86¢ per MCF effective on all meters read on and after December 8, 1972.

2) That Pennsylvania and Southern Gas Company (North Carolina Gas Service) shall file tariffs with the Commission reflecting the increase allowed and as set forth in ordering clause (1) above.

3) That at such time that the rate to North Carolina Gas Service is reduced as a result of Transcontinental Gas Pipe Line Corporation having collected its unrecovered gas cost that North Carolina Gas Service shall immediately file on one day's notice reduced tariffs reflecting this change plus applicable gross receipts tax.

4) That in the event the increases sought by Transcontinental Gas Pipe Line Corporation in the various Federal Power Commission dockets upon which these rates are based are reduced, North Carolina Gas Service shall immediately file tariffs reflecting corresponding decreases in its tariffs as authorized herein.

5) That in the event any refunds are received by North Carolina Gas Service from Transcontinental Gas Pipe Line Corporation as a result of action by the Federal Power Commission or if producer refunds flow through to Transcontinental Gas Pipe Line Corporation which are in turn passed on to North Carolina Gas Service, all such refunds, if any, shall be placed in the Restricted Account No. 253 "Other Deferred Credits" and shall be held in said restricted account subject to disposition and direction by the North Carolina Utilities Commission. Information concerning future refunds shall be furnished to the Commission not later than 15 days from the date of receipt, the information shall include the source thereof including the docket numbers and order dates of any proceeding involved in such refunds.

6) That the attached Notice, Appendix "A", be mailed to all customers along with the next bill advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of November, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

APPENDIX "A"
NOTICE

Upon application by North Carolina Gas Service, the North Carolina Utilities Commission approved increased rates on all meters read on and after December 8, 1972. The increase approved results in an increase of .86¢ per MCF on all rate schedules. This increase allows North Carolina Gas Service to recover only the increase in cost of gas to it from its supplier, Transcontinental Gas Pipe Line Corporation, plus related gross receipts tax, and increased insurance expenses, which increase has been approved by the Federal Power Commission.

DOCKET NO. G-9, SUB 92
DOCKET NO. G-9, SUB 94
DOCKET NO. G-9, SUB 97
DOCKET NO. G-9, SUB 98
DOCKET NO. G-9, SUB 100

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Piedmont Natural Gas Company, Inc., Filing of Increased Rates to Recover Increases in Cost of Gas to It from Its Supplier	)	ORDER APPROVING INCREASED RATES AND ESTABLISHING PROCEDURES TO RECOVER INCREASED COST OF GAS

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on April 11, 1972

BEFORE: Commissioner Hugh A. Wells, presiding, Chairman Harry T. Westcott, Commissioners John W. McDevitt, Marvin R. Wooten and Miles H. Rhyne

APPEARANCES:

For the Applicant:

Jerry W. Amos
McLendon, Brim, Brooks, Pierce & Daniels
Attorneys at Law
P.O. Drawer U, Greensboro, North Carolina 27402

For the Commission Staff:

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

WELLS, COMMISSIONER: On December 31, 1971, Piedmont Natural Gas Company, Inc. (Piedmont), filed with the North Carolina Utilities Commission (Commission) an application in Docket No. G-9, Sub 92, for authority to increase its firm rates by .803¢ per Mcf and its interruptible rates by .740¢ per Mcf, said increases to become effective March 2, 1972.

On January 20, 1972, in Docket No. G-9, Sub 94, Piedmont filed revised Rate Schedule No. 19A, Excess Gas Service to Private Electric Utilities, and Rate Schedule No. 5, Special Firm Industrial Service. These tariffs were to become effective February 1, 1972.

On March 17, 1972, in Docket No. G-9, Sub 97, Piedmont filed increased rates in the amount of 1.239¢ per Mcf to become effective April 16, 1972.

On March 30, 1972, in Docket No. G-9, Sub 98, Piedmont filed additional increased rates in the amount of 1.088¢ per

Mcf and/or 2.192¢ per Mcf. These revised tariffs were to become effective May 1, 1972.

On April 19, 1972, in Docket No. G-9, Sub 100, Piedmont filed additional revised schedules applicable to Rate Schedule No. 19A, Excess Gas Service to Private Electric Utilities, and Rate Schedule No. 5, Special Firm Industrial Service, these rate schedules to become effective May 1, 1972.

All of the above filings were made to recover increases in cost of gas to Piedmont from Transcontinental Gas Pipe Line Corporation (Transco). The above increases sought to be recovered by Piedmont result from the approval of the interim settlement agreement by the Federal Power Commission in Transco Docket No. RP71-118 on November 15, 1971. These increases in cost of gas from Transco result from the fact that Transco under its present supply conditions cannot deliver to Piedmont full contract volumes and is not expected to be able to deliver full contract volumes in the foreseeable future.

Transco makes no reduction in the cost of gas for the curtailed volumes and the demand charges related thereto. Under these circumstances Piedmont receives less gas but pays the same demand charge which results in an increase in cost of gas to Piedmont.

In accordance with the settlement provisions, Transco increased its rates to Piedmont effective February 1, 1972, in the amount of .7¢ per Mcf. This increased rate will permit Transco to recover curtailment credits paid to its customers in the amount of $3,424,184.

In Transco's second filing under the settlement agreement, it seeks to recover $6,557,437 covering the curtailment credits for the months of December 1971 and January and February 1972, by increasing its rates by 1¢ or 2.1¢ per Mcf effective May 1, 1972, to Piedmont and to its other customers, which increased rates will remain in effect until such time as Transco will recover $6,557,437 of curtailment credits paid to its customers plus additional credits for March 1 through April 15, 1972. From April 16, 1972, through November 15, 1972, Transco will make no adjustment for curtailed volumes.

All of the above applications except Docket No. G-9, Sub 100, were heard by the Commission at a public hearing on April 11, 1972, after notice to the public as required by the Commission.

Each of the applications as filed including No. G-9, Sub 100, were filed pursuant to G.S. 62-133(f) and in accordance with the Commission's Order in Docket No. G-100, Sub 14, which establishes procedures for utilities in order to recover increased cost of gas where occasioned by an increase in wholesale cost of gas from its suppliers.

Based on the evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1) That Piedmont is a public utility subject to the jurisdiction of the North Carolina Utilities Commission and authorized to do business in the State of North Carolina.

2) That the increase in cost of gas to Piedmont results from the settlement agreement filed by Transco and approved by the Federal Power Commission in Docket No. RP71-118 in which settlement agreement the customers of Transco, in this case Piedmont, has received credits to its gas bills through February 1972 in the amount of $468,802.44 and will receive additional credits until April 15, 1972. These demand charge credits will be recovered by Transco through increased rates to Piedmont pursuant to the settlement agreement. Piedmont through this transaction does not recover its increased cost of gas unless it is authorized to collect increased rates.

3) That from April 16 through November 15, 1972, Piedmont will continue to pay the demand charge related to curtailed volumes; however, no tracking by Transco of this amount is provided for in the settlement agreement. Said curtailments will result in increased cost of gas to Piedmont throughout this period.

4) That the rate of return of Piedmont found by this Commission in its last general rate of return case, Docket No. G-9, Subs 81 and 82, to be just and reasonable at May 19, 1971, was 6.56 percent on its rate base.

5) That the rates of return as shown in Docket No. G-9, Sub 98 have decreased compared to those found just and reasonable in Docket No. G-9, Subs 81 and 82.

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

CONCLUSIONS

1) That the increase applied for herein by Piedmont is an increase in the cost of gas as provided for in G.S. 62-133(f) and should be allowed to become effective pursuant to the procedures established by the Commission in Docket No. G-100, Sub 14.

2) That the rate of return of Piedmont has decreased from that found to be just and reasonable by the Commission in Docket No. G-9, Subs 81 and 82, the last general rate case, after adjusting for the increased rate and the increased cost of gas from its suppliers.

3) That the amount of increase in cost of gas to Piedmont from Transco will vary from month to month

depending on the amount of gas curtailed and that in order to enable Piedmont to recover only the increased cost of gas to it from its suppliers in a uniform and systematic manner, Piedmont should be allowed to increase its rates by 1.802¢ per Mcf. In order to assure that Piedmont recovers only the increase in cost of gas, Piedmont should be required to establish a memoranda account entitled Curtailment Credits for Tracking of Gas Cost (memoranda account) recording as debits all demand charges relating to curtailment volumes for the period provided for in the interim settlement agreement and to credit said memoranda account with the revenues received (less gross receipts tax) by Piedmont from a proposed increase in rates to become effective on one day's notice, this proposed increase to be 1.802¢ per Mcf applicable to all rate schedules which should permit Piedmont to recover the increased cost of gas related to curtailment volumes within a reasonable period of time.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That Piedmont Natural Gas Company, Inc., be allowed to file tariffs increasing all rates by 1.802¢ per Mcf, said tariffs to be filed on one day's notice.

2) That Piedmont Natural Gas Company, Inc., shall establish a memoranda account entitled Curtailment Credits for Tracking of Gas Cost, recording as debits all demand charges relating to curtailed volumes and crediting to said account the revenues received from the increase in rates as provided herein (less gross receipts tax), until said account approaches a zero balance; and when this account approaches a zero balance, Piedmont Natural Gas Company, Inc., shall file on one day's notice revised rate schedules terminating the increase in rates herein granted.

3) That this memoranda account shall be credited with any dollar amount recorded in Account No. 253 that has been accumulated by Piedmont Natural Gas Company, Inc., as provided for in this Commission's Order in Docket No. G-100, Sub 4.

4) That Piedmont Natural Gas Company, Inc., shall submit to the Commission its initial entries on its records as provided for herein and further shall submit monthly statements of the transactions in the memoranda account, using sub-account numbers to identify the activity in this account by the Federal Power Commission and the North Carolina Utilities Commission docket numbers.

5) That this Order shall remain open for such further orders of the Commission as may be required.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 92
DOCKET NO. G-9, SUB 94
DOCKET NO. G-9, SUB 97
DOCKET NO. G-9, SUB 98
DOCKET NO. G-9, SUB 100

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Piedmont Natural Gas Company, Inc., Filing of Increased Rates to Recover Increases in Cost of Gas to It from Its Supplier	))))	ORDER DENYING MOTION AND REQUIRING FILING OF REDUCED RATES

BY THE COMMISSION: On November 2, 1972, Piedmont Natural Gas Company, Inc. (Piedmont), filed for authority to reduce rates by .802¢ per Mcf.

On May 2, 1972, this Commission issued an order in this Docket granting Piedmont authority to increase its rates by 1.802¢ per Mcf and further requiring Piedmont to establish a Memoranda Account in which it would record as a debit all demand charges related to Transcontinental Gas Pipeline Corporation (Transco) interim curtailment plan and record as a credit all revenues received from the 1.802¢ per Mcf increase until such time as the Memoranda Account approached a "zero" balance at which time Piedmont was ordered to file reduced rates.

In September 1972, Piedmont received refunds from Carolina Pipeline totaling $212,288.18 of which $162,521.99 is applicable to its North Carolina operations. $1,534.44 of the refund is applicable to the period May 16, 1970, through December 31, 1970. Piedmont did not increase its rates to its customers during this period to track the increase in cost to it from Carolina but absorbed these increases. Piedmont requests that it be allowed to retain this amount of refund ($1,534.44). The remaining amount $160,987.55 is required to be placed in the restricted Account No. 253 pursuant to the Commission's Order of December 11, 1962, in Docket No. G-100, Sub 4.

Piedmont requests that it be allowed to credit the Memoranda Account by this $160,987.55 and if permitted to do so, the Memoranda Account would approach a "zero" balance on or about November 15, 1972.

The Commission further notes that the "settlement agreement as to interim curtailment rules" filed by Transcontinental Gas Pipe Line Corporation with the Federal

Power Commission on September 12, 1972, permits Transco to credit the monthly gas bills of Piedmont for the demand charges related to curtailed volumes and further permits Transco to recover the accumulated credits through increased rates at the end of certain specified periods.

The Commission is of the opinion that Piedmont should be allowed to credit the Memoranda Account with the $160,987.55 and is further of the opinion that the Memoranda Account will reach a "zero" balance on or about November 15, 1972, at which time Piedmont should file reduced rates in the amount of 1.802¢ per Mcf.

The Commission is further of the opinion that Piedmont should be allowed to credit Account No. 804.00, Natural Gas Purchases, with $1,534.44, that being the amount Piedmont absorbed and did not seek a tracking increase for the recovery thereof.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That Piedmont Natural Gas Company, Inc., be, and is hereby, permitted to credit the Memoranda Account as established by this Commission in this Docket with $160,987.55.

2) That Piedmont Natural Gas Company, Inc., be, and is hereby, authorized to credit Account No. 804.00, Natural Gas Purchases, with $1,534.44.

3) That the Motion filed by Piedmont Natural Gas Company, Inc., to reduce rates by only .802¢ per Mcf be, and is hereby, denied.

4) That Piedmont Natural Gas Company, Inc., shall file tariffs on one day's notice which reduces rates by 1.802¢ per Mcf effective November 15, 1972.

5) That with respect to all other matters, the Commission's order of May 2, 1972, in this Docket shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of November, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 92
DOCKET NO. G-9, SUB 94

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Piedmont Natural Gas Company, Inc., for an Adjustment of Its Rates and Charges	)	ORDER DENYING RATE INCREASES FILED TO BECOME EFFECTIVE FEBRUARY 1, 1972

BY THE COMMISSION: On December 31, 1971, and on January 20, 1972, Piedmont Natural Gas Company, Inc. (Piedmont), filed with the North Carolina Utilities Commission (Commission) applications in Docket Nos. G-9, Sub 92 and G-9, Sub 94 for authority to increase its rates and charges in order that it might recover increases in the cost of gas from Transcontinental Gas Pipe Line Corporation (Transco) and Carolina Pipeline Company (Carolina).

Based on the applications as filed and the other records of the Commission, the Commission makes the following:

FINDINGS OF FACT

1) Piedmont is a natural gas company operating in the State of North Carolina subject to the jurisdiction of the North Carolina Utilities Commission.

2) On December 31, 1971, Docket No. G-9, Sub 92, Piedmont filed increased rates in which it seeks to recover from its North Carolina customers in this docket $358,903 on an annual basis. This filing results in an increase in Piedmont's firm rate schedules of .803 cents per Mcf and in its interruptible rate schedules of .740 cents per Mcf.

3) Piedmont filed revised rate schedules Nos. 5 and 19A in Docket No. G-9, Sub 94 in which Piedmont is seeking to recover $16,727 under the tracking provisions in those rate schedules.

4) Transco, on December 29, 1971, in Docket No. RP71-118, filed a tracking rate to recoup curtailment credits pursuant to the settlement agreement approved by the Federal Power Commission on November 15, 1971. This filing by Transco results in an increase in cost of gas to Piedmont of .7 cents per Mcf. Carolina also proposes to track this increase to Piedmont in accordance with its purchase gas adjustment clause in its contract with Piedmont.

5) Transco in its filing with the Federal Power Commission dated December 29, 1971, (RP71-118) states that it has refunded to its customers the balance in the "Deferred Cost Account" of $3,424,184.

6) Transco in accordance with the settlement agreement approved by the Federal Power Commission filed a tracking

provision seeking to recover the $3,424,184 it refunded by increasing the rates of the affected rate schedules by .7 cents per Mcf. The .7 cents per Mcf was arrived at by dividing $3,424,184 by the volume of gas delivered under the affected rate schedules which amounted to 464,595,703 Mcf and covers the same period for which the credits were calculated.

Transco under the settlement agreement simply refunded the curtailment credits of $3,424,184 to its customers and then filed a tracking rate in the amount of .7 cents per Mcf to recover these dollars from its customers. The tracking increase of .7 cents per Mcf will terminate when Transco collects from its customers the $3,424,184.

7) Transco will track the demand charge credits through April 15, 1972. Transco is authorized under the settlement agreement to file tariffs to recover demand charge credits once each quarter. The tracking of demand charge credits terminates April 15, 1972, in accordance with the settlement agreement.

8) Piedmont received $345,730.30 (77 percent of which is applicable to North Carolina) through December 1971. These refunds result from the demand charge credits relating to the portion of the curtailment volumes for the period June through December 1971.

9) The filings by Piedmont in these dockets were made under the provisions of G.S. 62-133(f), and it submitted the data required by the Commission in its Order in Docket No. G-100, Sub 14.

Based on the foregoing findings of fact, the Commission arrives at the following:

CONCLUSIONS

The Commission in approving increases in rates occasioned by the increase in the cost of gas to gas distributors in North Carolina pursuant to G.S. 62-133(f) has provided that refunds received by North Carolina distributors be placed in a restrictive account for further orders of the Commission. This provision was inserted in the order in the recently issued Piedmont tracking filings in Docket Nos. G-9, Sub 86 and G-9, Sub 90 issued on December 30, 1971, and in orders relating to other miscellaneous tariff filings. Piedmont has received the amount of $345,730.30 (77 percent of which is applicable to North Carolina) in refunds relating to the demand charge curtailments which were refunded by credit to the cost of gas through December 1971 on the gas bills of Piedmont from Transco. The credits cover a seven-month period.

The increased rates applied for herein seek to recover from its customers an amount equivalent to the refunds made to Piedmont by Transco, if equated to an equivalent time

period. If the Commission authorizes the rates as herein applied for and requires Piedmont to refund the refunds received by Piedmont from Transco by credits to the gas bill over the same time period, it is obvious that one would tend to cancel the other and that no benefits would accrue to Piedmont's customers or to Piedmont.

The Commission further believes that on analysis that this increase is not the type of increase in rates contemplated by the Legislature in accordance with G.S. 62-133(f).

The Commission is of the opinion that for the reasons stated herein that the request by Piedmont to increase its rates to track the curtailment credits for the demand charge adjustment as filed herein should be denied.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That the tariffs filed by Piedmont Natural Gas Company, Inc., in which Piedmont Natural Gas Company, Inc., seeks to increase its rates and charges on December 31, 1971, and January 20, 1972, to become effective on February 1, 1972, in Docket No. G-9, Sub 92 and Docket No. G-9, Sub 94, be, and are hereby, denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 101

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Piedmont Natural Gas Company, Inc., to Account for Refund Crediting Account No. 804.00, Natural Gas Purchases, and Account No. 419.00, Interest and Dividend Income	)	ORDER PERMITTING RETENTION OF REFUNDS

BY THE COMMISSION: On July 19, 1972, Piedmont Natural Gas Company, Inc. (Piedmont), filed an application with the North Carolina Utilities Commission. The application requests approval for Piedmont to retain certain refunds received from Carolina Pipeline in the aggregate amount of $45,215.77 ($34,529.49 of which is applicable to North Carolina). Piedmont proposes to credit Account No. 804.00, Natural Gas Purchases, $30,473.76, and Account No. 419.00, Interest and Dividend Income, $4,055.73.

Based on the application filed and the other records of the Commission, the Commission makes the following

FINDINGS OF FACT

1) That in 1969 Southern Natural Gas Company (Southern Natural) filed an application with the Federal Power Commission (FPC) for a general rate increase. Said increase was placed into effect under bond on March 1, 1970 (Docket No. RP70-5). In addition thereto, Southern Natural filed additional increases in cost of gas in Docket Nos. RP70-16 and RP71-4. Each of these increases was applicable to the period March 1, 1970, to December 31, 1970.

2) That effective March 1, 1970, Carolina Pipeline Company (Carolina), from whom Piedmont purchases gas in South Carolina, increased its rates to Piedmont in order to "track" the above increases from Southern Natural.

3) That on April 5, 1972, Southern Natural filed revised tariffs with the FPC covering the period March 1, 1970, through December 31, 1970, and made a refund to Carolina.

4) That in May 1972, Carolina refunded to Piedmont a portion of Southern Natural's refund to it based on deliveries to Piedmont. The refund was made by check dated May 4, 1972, in the amount of $43,888.04 which represents a refund of $39,904.86 relating to reduction in gas cost during that period and includes interest of $3,983.18. Carolina issued a subsequent check to Piedmont in the amount of $1,327.73 representing additional interest.

5) That the amount of refund applicable to North Carolina is $30,473.76 which relates to purchased gas reductions. Interest applicable to this refund is $4,055.73.

In Docket No. G-9, Sub 81 and Sub 82, Piedmont filed an application with this Commission for authority to increase rates in order to recover increased gas cost to it, including those refunded herein to Carolina. The test period utilized by the Commission in Docket No. G-9, Sub 81 and Sub 82 was the 12-month test period ending August 31, 1970.

Piedmont was authorized to place into effect, pursuant to an undertaking, the increase in cost of gas to it including the increase charged by Carolina effective January 28, 1971.

That on May 19, 1971, the North Carolina Utilities Commission approved the increased rate applied for by Piedmont to recover the increased cost of gas to it from Carolina and Transcontinental Gas Pipe Line Corporation. The increased rates became effective on January 28, 1971.

Based on the foregoing findings of fact, the Commission concludes that the refund received by Piedmont relating to the period prior to the effective date of the increased rates, January 28, 1971, in Docket No. G-9, Sub 81 and

Sub 82 and the interest relating to the refund should be retained by Piedmont.

However, the Commission reserves the right to treat additional refunds of this nature on a case-by-case basis in order to properly evaluate the merits of equitable treatment of investors and consumers.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That Piedmont Natural Gas Company, Inc., be permitted to retain the refunds described herein and to credit Account No. 804.00, Natural Gas Purchases by $30,473.76 and Account No. 419.00, Interest and Dividend Income by $4,055.73.

ISSUED BY ORDER OF THE COMMISSION.

This the 21st day of August, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 105
DOCKET NO. G-9, SUB 109

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Piedmont Natural Gas Company, Inc., for an Adjustment of Its Rates and Charges	)	ORDER CONSOLIDATING PROCEEDINGS, ALLOWING AMENDMENT AND APPROVING TRACKING INCREASE

BY THE COMMISSION: On August 29, 1972, Piedmont Natural Gas Company, Inc. (Piedmont), filed an application with the North Carolina Utilities Commission in Docket No. G-9, Sub 105, in which it seeks to increase its rates to its customers in order that it might recover increases in the cost of gas to it from its wholesale suppliers, Transcontinental Gas Pipe Line Corporation (Transco) and Carolina Pipeline Company (Carolina).

On September 7, 1972, in Docket No. G-9, Sub 109, Piedmont filed a second request with this Commission in order to recover additional increases in the cost of gas not known by it when it filed its application in Docket No. G-9, Sub 105.

On September 20, 1972, Piedmont filed a Motion to Amend its Petition filed in Docket No. G-9, Sub 109, on September 7, 1972, and also filed an Amendment to that Petition in order to correct the filing of September 7, 1972, because of erroneous rates furnished to Piedmont by Carolina. For the purpose of rendering its decision in these dockets, the Commission is of the opinion that the Motion to Amend its Petition filed September 20, 1972, should be granted and

that these dockets should be consolidated for the purpose of this order.

In these consolidated proceedings Piedmont is seeking to recover the increases in cost of gas to it as follows: On August 15, 1972, Transco filed under its PGA clause to increase the cost of the commodity component of its CD-2 and PS-2 rates by .8¢ per Mcf effective October 1, 1972.

At the same time in Docket No. RP71-118, Transco proposed to reduce its rates due to the elimination of the curtailment tracking increase. This reduction, however, will not affect Piedmont's rates until Piedmont recovers all increases related to curtailment as authorized by this Commission in Docket No. G-9, Subs 92, 94, 97, 98 and 100, at which time Piedmont is required to reduce its rates to its customers as required by order of this Commission.

Piedmont further purchases gas from Carolina under a contract which provides for automatic adjustments in its tariffs to reflect increases in cost of gas purchased to Carolina from its suppliers including Transco. Under the terms of this contract Carolina will track the Transco increase of .8¢ per Mcf effective October 1, 1972, by increasing its LSS-1 commodity charges to Piedmont by .14¢ per Mcf. Carolina further increased its rates pursuant to its contract with Piedmont effective July 1, 1972, by increasing its commodity charges from 43.09¢ per Mcf to 44.17¢ per Mcf and decreased its demand charges from $4.32 per Mcf per month to $3.91 per Mcf per month. These increases result from increases from Southern Natural Gas Company (Southern) to Carolina. In order to recover the above increases in cost of gas and gross receipts tax, Piedmont filed its Petition in Docket No. G-9, Sub 105, seeking authority to increase its North Carolina revenues by $360,000 annually.

In Docket No. G-9, Sub 109, Piedmont is requesting to be allowed to recoup the following increases from Carolina:

1) Effective August 1, 1972, commodity charges would be increased by .31¢ per Mcf to track increases to Carolina from Southern as approved by the Federal Power Commission in Docket No. RP73-13.

2) Effective September 1, 1972, commodity charges would be increased by .24¢ per Mcf to track increases to Carolina from Southern as filed for in Federal Power Commission Docket No. RP73-16.

3) Effective October 1, 1972, demand charges would be reduced from $3.91 per Mcf per month to $3.81 per Mcf per month. The commodity charges would be increased by 2.43¢ per Mcf as filed for by Transco and Southern in Federal Power Commission Docket Nos. RP73-3 and RP72-91, respectively.

The result of these increases in cost of gas to Piedmont filed in Docket No. G-9, Sub 109, results in an increase in revenue to its North Carolina customers in order to recover these increases in cost plus gross receipts tax of $104,407 annually. The combined results of the increased rates applied for in Docket No. G-9, Sub 105 and Sub 109, are $464,761 annually.

The North Carolina General Assembly adopted Chapter 1092, Session Laws of 1971, ratified July 21, 1972, North Carolina G.S. 62-133(f) which provides as follows:

"Unless otherwise ordered by the Commission, Subsections (b), (c) and (d) shall not apply to rate changes of utilities engaged in the distribution of natural gas bought at wholesale by a utility for distribution to consumers to the extent such rate changes are occasioned by changes in the wholesale rate of such natural gas. The Commission may permit such rate change to become effective simultaneously with the effective date of the change in the wholesale cost of such natural gas, or at such other time as the Commission may direct. This Subsection shall not prohibit the Commission from investigating and changing unreasonable rates in accordance with the provisions of this Chapter. The public utility shall give such notice, which may include notice by publication, of the changes to interested parties as the Commission in its discretion may direct."

Pursuant to the authority granted above to the Commission by the Legislature, the Commission issued in Docket No. G-100, Sub 14, requiring certain data as follows to be filed with the Commission for the consideration of increased rates filed solely to recover increases in the cost of gas to a gas utility company in this State if approved by the Federal Power Commission.

Pursuant to that Order, Piedmont filed the following data:

1) Summary of Piedmont rates and charges as approved by this Commission in Docket No. G-9, Subs 92, 94, 97, 98 and 100.

2) Schedules of Piedmont rates and charges which Piedmont seeks to place in effect on October 1, 1972, in Docket No. G-9, Sub 109, as amended are filed to become effective October 1, 1972.

3) Statement of net investment as at April 30, 1972.

4) Statement of present fair value rate base.

5) Statement showing accumulated depreciation balances and depreciation rates.

6) Statement of materials and supplies necessary for operation of the Petitioner's business.

7) Statement showing amount of cash working capital which Petitioner finds necessary to keep on hand.

8) Statement of net operating income for return for 12 months ended April 30, 1972.

9) Statement showing effect of proposed increase in rates and rates of return.

10) Balance sheet at April 30, 1972, and income statement for the year ended April 30, 1972.

11) Computation of increased cost of purchased gas.

12) Copy of Transco's Application to the Federal Power Commission in Docket No. RP71-118.

The data as filed was reviewed and analyzed by the Commission's Accounting and Engineering Staff and a report of same submitted to the Commission for its consideration.

Notice of the proposed filing in this Docket was given to the public by Piedmont inserting a public notice in various newspapers through its service area in North Carolina.

Based on the Application as filed and the records of the Commission in this Docket, the Commission makes the following

FINDINGS OF FACT

1) That Piedmont Natural Gas Company, Inc., is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2) That the increases in the cost of gas which Piedmont is seeking to recover in Docket No. G-9, Sub 105 and Sub 109, have been approved by the Federal Power Commission effective October 1, 1972.

3) That the tariffs filed by Piedmont in Docket No. G-9, Sub 105, have been superseded by the tariffs filed by Piedmont in Docket No. G-9, Sub 109, as amended, filed to become effective October 1, 1972.

4) That Piedmont filed tariffs to recover these increases in the cost of gas to it plus related gross receipts tax to become effective on all gas sold on and after October 1, 1972. All firm gas rates will be increased by $.00794 per Mcf. All interruptible rates will be increased by $.01289.

5) That the rate of return as approved by the Commission in Docket No. G-9, Sub 81 and Sub 82, issued on May 19, 1971, for the test period ending August 31, 1970, and that determined by the Commission in this Docket are listed below:

	Approved in Docket No. G-9, Subs 81 & 82 May 19, 1971	Present Filing
On investment	7.68	7.62

The return on end of period investment in these proceedings have decreased from that found just and reasonable by the Commission in the last rate of return filing approved by this Commission and made effective January 28, 1971, after the adjustments for the proposed increases as applied for herein.

CONCLUSIONS

In accordance with G.S. 62-133(f) the Commission has statutory authority to consider as a separate item increases in the cost of gas to gas utilities in North Carolina occasioned by increases in cost of gas to them from their wholesale supplier as approved by the Federal Power Commission. The Commission issued a General Order in Docket No. G-100, Sub 14, providing that after review of the data filed by the natural gas utilities as described therein, if the Commission concludes from such review and analysis that the filings will not result in an increase in the Company's rate of return over the most recently approved by the Commission, that the pass-on of the wholesale increased cost of gas will be allowed.

The Commission considers the filings and applications herein as complying with G.S. 62-133(f) as allowed to become effective without hearing.

The Commission concludes that in this proceeding the rate of return of Piedmont has decreased since the last general rate proceeding in Docket No. G-9, Subs 81 and 82, which Order was issued on May 19, 1971.

The Commission further concludes that the tariffs filed by Piedmont in Docket No. G-9, Sub 105, have been superseded by those filed in Docket No. G-9, Sub 109, as amended, both filed to become effective October 1, 1972.

Based on the foregoing Findings of Fact and Conclusions, the Commission is of the opinion that the rate increase as filed by Piedmont that seeks solely to recover increases in the cost of gas to it from its suppliers as approved by the Federal Power Commission should be allowed as a filing pursuant to G.S. 62-133(f) and should be permitted to become effective without hearing.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That the proceedings in Docket No. G-9, Sub 105 and Sub 109, as amended, be consolidated.

2) That the Motion to Amend filed by Piedmont Natural Gas Company, Inc., to its application filed on September 7, 1972, be, and is hereby, allowed.

3) That the tariffs filed by Piedmont Natural Gas Company, Inc., as Exhibit No. 2 in Docket No. G-9, Sub 109, as amended, be, and are hereby, authorized to become effective on all gas consumed on and after October 1, 1972.

4) That at such time that the rate to Piedmont Natural Gas Company, Inc., is reduced as a result of Transcontinental Gas Pipe Line Corporation's having collected its unrecovered gas cost that Piedmont Natural Gas Company, Inc., shall immediately file on one day's notice reduced tariffs reflecting this change plus applicable gross receipts tax. This reduction is to include Carolina's reduction to Piedmont Natural Gas Company, Inc., as a result of its purchases from Transcontinental Gas Pipe Line Corporation.

5) That in the event that increases sought by Transcontinental Gas Pipe Line Corporation and Southern Natural Gas Company through Carolina Pipeline Company in various Federal Power Commission Dockets upon which these rates are based are reduced, Piedmont shall immediately file tariffs reflecting the corresponding decreases in its tariffs as authorized herein.

6) That in the event any refunds are received by Piedmont Natural Gas Company, Inc., from Transcontinental Gas Pipe Line Corporation or Southern Natural Gas Company as a result of action by the Federal Power Commission or if producer refunds flow through to Transcontinental Gas Pipe Line Corporation or Southern Natural Gas Company which are in turn passed on to Piedmont Natural Gas Company, Inc., directly or through Carolina Pipeline Company, all such refunds, if any, shall be placed in the Restricted Account No. 253 "Other Deferred Credits" and shall be held in said restricted account subject to disposition and direction by the North Carolina Utilities Commission. Information concerning future refunds shall be furnished the Commission not less than 15 days from the date of receipt, the information shall include the source thereof including the docket numbers and order dates of any proceeding involved in such refunds.

7) That the attached Notice, Appendix "A", be mailed to all customers along with the next bill advising them of the actions taken herein.

8) That the tariffs filed by Piedmont Natural Gas Company, Inc., in Docket No. G-5, Sub 105, to become effective October 1, 1972, having been superseded by the tariffs filed in Docket No. G-5, Sub 109, be, and are hereby, cancelled.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of September, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
NOTICE

Upon application by Piedmont Natural Gas Company, Inc., the North Carolina Utilities Commission approved increased rates on all gas consumed on and after October 1, 1972. The increases approved result in an increase of $.01289 per Mcf to its interruptible rate schedules and $.00794 per Mcf increase to its firm rate schedule. This increase allows Piedmont Natural Gas Company, Inc., to recover only the increase in cost of gas to it from its suppliers, Transcontinental Gas Pipe Line Corporation and Carolina Pipeline Company, plus related gross receipts tax, which increases have been approved by the Federal Power Commission.

DOCKET NO. G-5, SUB 84

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Public Service Company of North Carolina, Inc., Filing of Increased Rates to Recover Increases in Cost of Gas to it from its Supplier	)	ORDER APPROVING INCREASED RATES AND ESTABLISHING PROCEDURES TO RECOVER INCREASED COST OF GAS

BY THE COMMISSION: On May 5, 1972, Public Service Company of North Carolina, Inc. (Public Service), filed with the North Carolina Utilities Commission (Commission) an application in Docket No. G-5, Sub 84 for authority to increase its rates by 1.81¢ per Mcf, said increases to become effective June 5, 1972.

This filing was made to recover increases in cost of gas to Public Service from Transcontinental Gas Pipe Line Corporation (Transco). The above increases sought to be recovered by Public Service result from the approval of the interim settlement agreement by the Federal Power Commission in Transco Docket No. RP71-118 on November 15, 1971. These increases in cost of gas from Transco result from the fact that Transco, under its present supply conditions, cannot deliver to Public Service full contract volumes and is not expected to be able to deliver full contract volumes in the foreseeable future.

Transco makes no reduction in the cost of gas for the curtailed volumes and the demand charges related thereto. Under these circumstances Public Service receives less gas

but pays the same demand charge which results in an increase in cost of gas to Public Service.

In accordance with the settlement provisions, Transco increased its rates to Public Service effective February 1, 1972, in the amount of .7¢ per Mcf. This increased rate will permit Transco to recover curtailment credits paid to its customers in the amount of $3,424,184.

In Transco's second filing under the settlement agreement, it seeks to recover $6,557,437 covering the curtailment credits for the months of December 1971 and January and February 1972 by increasing its rates by 1¢ per Mcf effective May 1, 1972, to Public Service and to its other customers, which increased rates will remain in effect until such time as Transco will recover $6,557,437 of curtailment credits paid to its customers plus additional credits for March 1 through April 15, 1972. From April 16, 1972, through November 15, 1972, Transco will make no adjustment in the cost of gas relating to curtailed volumes and the demand charge applicable thereto.

Notice to the public was given by Public Service as required by the Commission.

This application was filed pursuant to G.S. 62-133(f) and in accordance with the Commission's Order in Docket No. G-100, Sub 14, which establishes procedures for utilities in order to recover increased cost of gas where occasioned by an increase in wholesale cost of gas from its suppliers.

Based on the data filed by Public Service pursuant to G-100, Sub 14, the Commission makes the following

FINDINGS OF FACT

1) That Public Service is a public utility subject to the jurisdiction of the North Carolina Utilities Commission and authorized to do business in the State of North Carolina.

2) That the increase in cost of gas to Public Service results from the settlement agreement filed by Transco and approved by the Federal Power Commission in Docket No. RP71-118 in which settlement agreement, the customers of Transco, in this case Public Service, have received credits to its gas bills through February 1972 and will receive additional credits to April 15, 1972. These demand charge credits will be recovered by Transco through increased rates to Public Service pursuant to the settlement agreement. Public Service, through this transaction, does not recover its increased cost of gas unless it is authorized to collect increased rates.

3) That from April 16 through November 15, 1972, Public Service will continue to pay the demand charge related to

curtailed volumes; however, no tracking by Transco of this amount is provided for in the settlement agreement. Said curtailments will result in increased cost of gas to Public Service throughout this period.

4) That the rate of return allowed by this Commission to Public Service in its last general rate of return case, Docket No. G-5, Sub 71 and Sub 77 at May 27, 1971, was 6.66 percent on the fair value rate base.

5) That the rates of return as shown in Docket No. G-5, Sub 84 have decreased compared to those found just and reasonable in Docket No. G-5, Sub 71 and Sub 77.

Based on the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1) That the increase applied for herein by Public Service is an increase in the cost of gas as provided for in G.S. 62-133(f) and should be allowed to become effective pursuant to the procedures established by the Commission in Docket No. G-100, Sub 14.

2) That the rate of return of Public Service has decreased from that found to be just and reasonable by the Commission in Docket No. G-5, Sub 71 and Sub 77, the last general rate case, after adjusting for the increased rate applied for and the increased cost of gas from its suppliers.

3) That the amount of increase in cost of gas to Public Service from Transco will vary from month to month depending on the amount of gas curtailed and that in order to enable Public Service to recover only the increased cost of gas to it from its supplier in a uniform and systematic manner, Public Service should be allowed to increase its rates by 1.81¢ per Mcf. In order to assure that Public Service recovers only the increase in cost of gas, Public Service should be required to establish a memoranda account entitled Curtailment Credits for Tracking of Gas Cost (memoranda account) recording as debits all demand charges relating to curtailment volumes for the period provided for in the interim settlement agreement and to credit said memoranda account with the revenues received (less gross receipts tax) by Public Service from the filed tariffs to become effective on June 5, 1972. The requested increase of 1.81¢ per Mcf applicable to all rate schedules should permit Public Service to recover the increased cost of gas related to curtailment volumes within a reasonable period of time.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That the tariffs filed by Public Service Company of North Carolina, Inc., to become effective June 5, 1972, be, and are hereby, approved.

2) That Public Service Company of North Carolina, Inc., shall establish a memoranda account entitled Curtailment Credits for Tracking of Gas Cost, recording as debits all demand charges relating to curtailed volumes and crediting to said account the revenues received from the increase in rates as provided herein (less gross receipts tax), until said account approaches a zero balance; and when this account approaches a zero balance, Public Service Company of North Carolina, Inc., shall file on one day's notice revised rate schedules terminating the increase in rates herein granted.

3) That this memoranda account shall be credited with any dollar amount recorded in Account No. 253 that has been accumulated by Public Service Company of North Carolina, Inc., as provided for in this Commission's Order in Docket No. G-100, Sub 4.

4) That Public Service Company of North Carolina, Inc., shall submit to the Commission its initial entries on its records as provided for herein and, further, shall submit monthly statements of the transactions in the memoranda account, using sub-account numbers to identify the activity in this account by the Federal Power Commission and the North Carolina Utilities Commission Docket numbers.

5) That this Order shall remain open for such further orders of the Commission as may be required.

ISSUED BY ORDER OF THE COMMISSION.

This the 31st day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-1, SUB 31

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of United Cities Gas Company) ORDER CLOSING
for an Adjustment of its Rates and Charges) RECORD

BY THE COMMISSION: On August 9, 1971, United Cities Gas Company (United Cities) filed a request to include in its tariffs a purchase gas adjustment clause which would permit it to increase its rates by an amount equal to the increased cost of purchased gas to it from its wholesale supplier. The filing was suspended by the Commission under date of August 11, 1971.

Since that filing the Commission has issued its order in Docket No. G-100, Sub 14, in which it sets forth its procedures for filing for tracking of increased cost of gas

to gas distributors in North Carolina from their wholesale supplier and for that reason, the Commission is of the opinion that the application filed herein should be dismissed and the proceeding closed.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That the application filed by United Cities Gas Company in this docket be dismissed and that the record in this proceeding be closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of February, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-1, SUB 32
DOCKET NO. G-1, SUB 33

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of United Cities Gas	)	ORDER ALLOWING
Company for an Adjustment of Its	)	INCREASE IN RATES
Rates and Charges	)	AND CHARGES

BY THE COMMISSION: On December 2, 1971, United Cities Gas Company (United Cities) filed an application with the North Carolina Utilities Commission in Docket No. G-1, Sub 32 in which it seeks to increase its rates to its customers in order that it might recover increases in the cost of gas to it from its wholesale supplier, Transcontinental Gas Pipe Line Corporation (Transco). The tariffs filed by United Cities in this docket were filed to become effective January 1, 1972.

On December 9, 1971, in Docket No. G-1, Sub 33, United Cities filed a second application in which it seeks to recover additional increases to it in the cost of gas from Transco. The tariffs filed in this docket by United Cities were filed to become effective on January 8, 1972. Both of the above filings by United Cities were made under G.S. 62-133(f) and under the procedure established by the Commission in Docket No. G-100, Sub 14.

On December 29, 1971, the Commission issued its Order that the increased tariffs filed by United Cities Gas Company in Docket No. G-1, Sub 32, and Docket No. G-1, Sub 33, be suspended for a period of thirty days from the effective date stated in the tariffs in each of these dockets.

Below are listed the increases in the cost of gas to United Cities as contained in Docket No. G-1, Sub 32.

1) Effective July 26, 1971, Transco increased its CD-2 Rates by .1¢ per Mcf.

2) Effective August 2, 1971, Transco increased its CD-2 Rates by .6¢ per Mcf.

3) Effective November 14, 1971, Transco increased its CD-2 Rates by 1.2¢ per Mcf.

4) Effective November 14, 1971, Transco increased its CD-2 Rates by .1¢ per Mcf.

In order for United Cities to recover the increased cost of gas to it as listed above plus related gross receipt tax, United Cities filed rate schedules to become effective January 1, 1972, on all bills which would increase the cost of gas to its customers by 2¢ per Mcf. These increased rates increase the revenues paid by North Carolina customers to United Cities by $18,245.00.

Below are listed the increases in the cost of gas to United Cities Gas Company as contained in Docket No. G-1, Sub 33.

Transcontinental Gas Pipe Line Corporation

CD-2 Rates - 1) Demand charges increased by 16¢ per month per Mcf

2) Commodity charges increased by 1.3¢ per Mcf

GSS Rates - Demand charges increased by 4¢ per month per Mcf

All of the above increases (G-1, Subs 32 and 33) in the cost of gas have been approved by the Federal Power Commission.

In order to recover the increases in Docket No. G-1, Sub 33, in the cost of gas, United Cities has filed tariffs to become effective on January 8, 1972, on all bills rendered. These increased rates increase the re enue paid by North Carolina customers to United Cities by $18,250.00.

The total amount of the increase in revenue in the two dockets referred to above from its North Carolina customers will increase the revenue of United Cities by $36,495.00 annually.

The North Carolina General Assembly adopted Chapter 1092, Session Laws of 1971, ratified July 21, 1971, North Carolina G.S. 62-133(f) which provides as follows:

"Unless otherwise ordered by the Commission, Subsections (b), (c), and (d) shall not apply to rate changes of utilities engaged in the distribution of natural gas bought at wholesale by a utility for distribution to

consumers to the extent such rate changes are occasioned by changes in the wholesale rate of such natural gas. The Commission may permit such rate change to become effective simultaneously with the effective date of the change in the wholesale cost of such natural gas, or at such other time as the Commission may direct. This Subsection shall not prohibit the Commission from investigating and changing unreasonable rates in accordance with the provisions of this Chapter. The public utility shall give such notice, which may include notice by publication, of the changes to interested parties as the Commission in its discretion may direct."

Pursuant to the authority granted above to the Commission by the Legislature, the Commission issued its order in Docket No. G-100, Sub 14, requiring that certain data as follows be filed by gas utilities with the Commission for the consideration of increased rate filings solely to recover increases in the cost of gas to a gas utility approved by the Federal Power Commission.

Pursuant to that order, United Cities Gas Company filed the following data:

1) Schedules of United Cities rates and charges as filed with the Commission in Docket No. G-1, Sub 30

2) Schedule of United Cities proposed rates and charges which United Cities seeks to place in effect in this petition, Rule R1-17 (b) (2)

3) Statement of net investment as at September 30, 1971

4) Statement of plant and properties as at September 30, 1971

5) Statement of contributions in aid of construction as at September 30, 1971

6) Statement of cash working capital as at September 30, 1971, Rule R1-17(b) (7)

7) Statement of materials and supplies as at September 30, 1971, Rule R1-17(b) (6)

8) Statement showing the original cost of all properties of United Cities used or useful in the public service to which the proposed increased rates relate as of September 30, 1971, Rule R1-17(b) (3)

9) Statement of accrued depreciation on all property to which the proposed increased rates relate as of September 30, 1971, and of the rates and methods used computing the amounts charged to depreciation, Rule R1-17(b) (5)

10) Statement of operating income for return

11) Statement of gross revenues received, operating expenses and net income for return on investment for the twelve months ending September 30, 1971, together with accounting and pro forma adjustments in the rate of return on the original cost rate base; statement of additional annual gross revenue which the proposed increase in rates and charges will produce; the annual additional expense associated with such additional gross revenues; the net additional revenue which the proposed rates will produce; the rate of return which United Cities estimates it will receive on the original cost rate base after given effect to the proposed increase in rates, Rule R1-17 (b)(8) and (9)

12) Statement of general office expense allocations

13) Balance sheet as at September 30, 1971, and income statement for the twelve months ending September 30, 1971, Rule R1-17(b)(10)

14) Statement of computations of return on equity

Schedules of United Cities rates and charges as filed with and approved by the Commission in Docket No. G-1, Sub 30, are incorporated herein by reference, Rule R1-17(b)(1).

United Cities requests that the Commission consider the filings in these consolidated dockets under G.S. 62-133(f) and under the procedures established by the Commission in Docket No. G-100, Sub 14.

The data as filed was reviewed and analyzed by the Commission's Accounting and Engineering Staff and a report of same submitted to the Commission for its consideration.

Notice of the proposed filings in these consolidated dockets was given to the public by United Cities inserting a public notice in the Hendersonville Times News on December 9, 1971, and again on December 16, 1971. These notices were published pursuant to the direction of the Commission.

Based on the applications as filed and the records of the Commission in these consolidated dockets, the Commission makes the following:

FINDINGS OF FACT

1) That United Cities Gas Company (United Cities) is a public utility subject to the jurisdiction of the North Carolina Utilities Commission.

2) That the increase in the cost of gas which United Cities is seeking to recover in Docket No. G-1, Sub 32, has been approved by the Federal Power Commission (2¢/Mcf).

3) That United Cities filed tariffs in Docket No. G-1, Sub 32, which increases its rate by 2¢ per Mcf.

4) That the increases in the cost of gas which United Cities is seeking to recover in Docket No. G-1, Sub 33, have been approved by the Federal Power Commission in Docket No. RP72-78 effective January 1, 1972.

5) That United Cities filed tariffs to recover these increases in the cost of gas plus related gross receipt tax to become effective on all bills rendered on and after January 8, 1972. These tariffs have been increased as follows: Firm Tariffs $.031/MCF. Interruptible tariffs $.016/MCF.

6) That the rate of return as approved by the Commission in Docket No. G-1, Sub 30 made effective December 15, 1971, and those determined by the Commission in this proceeding are listed below:

	Approved in Docket No. G-1, Sub 30 December 15, 1971	Present Filing
On investment	7.99	7.70
On equity	12.01	11.99

The return on end of period investment and return on equity in these proceedings have decreased from that found just and reasonable by the Commission in the most recent filing approved by this Commission and made effective December 15, 1971, after the adjustment for the proposed increases as applied for herein.

CONCLUSIONS

In accordance with G.S. 62-133(f) the Commission has statutory authority to consider as a separate item increases in the cost of gas to gas utilities in North Carolina occasioned by increases in cost of gas to them from their wholesale supplier as approved by the Federal Power Commission. The Commission issued a General Order in Docket No. G-100, Sub 14 providing that after review of the data filed by the natural gas utilities as ascribed therein, if the Commission concludes from such review that the filings will not result in an increase in the Company's rate of return most recently approved by the Commission in Docket No. G-1, Sub 30, that the pass-on of the wholesale increased cost of gas be allowed. The Commission considers the filings and applications herein as complying with G.S. 62-133(f) as allowed to become effective without hearing.

The Commission concludes that in these consolidated proceedings the rate of return of United Cities has decreased since the last general proceeding in Docket No. G-1, Sub 30, which Order was issued on December 3, 1971.

Based on the foregoing Findings of Fact and Conclusions, the Commission is of the opinion that the rate increase as filed by United Cities that seeks solely to recover

increases in the cost of gas to it from its supplier as approved by the Federal Power Commission should be allowed as a filing pursuant to G.S. 62-133(f) and should be permitted to become effective without hearing.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That the tariffs filed by United Cities Gas Company in Docket No. G-1, Sub 32, and Docket No. G-1, Sub 33, be, and are hereby, authorized to become effective as filed on one day's notice to the Commission.

2) That in the event the increases sought by Transcontinental Gas Pipe Line Corporation in the various Federal Power Commission dockets upon which these rates are based are reduced or if the effective dates are changed, that United Cities Gas Company shall immediately file tariffs making corresponding decreases in the tariffs as approved herein or file tariffs changing the effective date to 15 days after the effective date of the approval by the Federal Power Commission.

3) That in the event that the Federal Power Commission or the Federal Price Commission makes changes in the wholesale rates to United Cities retroactively or if refunds are received from Transcontinental Gas Pipe Line Corporation as a result of regulatory action or if producers' refunds flow through to Transcontinental Gas Pipe Line Corporation which are in turn passed on to United Cities, all such refunds in the retroactive portion of any rate change, if any, shall be placed in the restrictive account for further orders of this Commission.

4) That the attached Notice, Appendix "A", be mailed to all customers along with the next bill advising them of the actions taken herein.

ISSUED BY ORDER OF THE COMMISSION.
This the 18th day of January, 1972.

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

APPENDIX "A"
NOTICE

Upon application by United Cities Gas Company, the North Carolina Utilities Commission approved increased rates on January 18, 1972. The increases approved result in an increase of $.0051/therm on firm rate schedules and $.0036/therm effective on interruptible schedules. These increases allow United Cities Gas Company to recover only the increases in cost of gas to it from its supplier, Transcontinental Gas Pipe Line Corporation, which increases have been approved by the Federal Power Commission.

United Cities Gas Company

DOCKET NO. G-1, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of United Cities Gas Company for an Adjustment of Its Rates and Charges	)	ORDER DENYING RATE INCREASES FILED TO BECOME EFFECTIVE FEBRUARY 6, 1972

BY THE COMMISSION: On January 7, 1972, United Cities Gas Company (United Cities) filed with the North Carolina Utilities Commission (Commission) an Application for authority to increase its rates and charges in order that it might recover increases in the cost of gas to it from Transcontinental Gas Pipe Line Corporation (Transco).

Based on the Application as filed and the other records of the Commission, the Commission makes the following

FINDINGS OF FACT

1) That United Cities Gas Company is a natural gas company operating in the State of North Carolina subject to the jurisdiction of the North Carolina Utilities Commission.

2) That on January 7, 1972, United Cities filed increased rates in which it seeks to recover from its customers in this Docket $6,024.00 on an annual basis. This filing results in an increase in each rate schedule of .7¢ per Mcf affecting all of its customers.

3) That Transco, on December 29, 1971, in Docket No. RP71-118 filed a tracking rate to recoup curtailment credits pursuant to the Settlement Agreement approved by the Federal Power Commission on November 15, 1971. This filing by Transco results in an increase in the cost of gas to United Cities of .7¢ per Mcf.

4) That Transco, in its filing with the Federal Power Commission dated December 29, 1971, (RP 71-118) states that it has refunded to its customers the balance in the "Deferred Cost Account" of $3,424,184. United Cities received $3,613.19 through December 1, 1971, applicable to its North Carolina Operations. This refund results from the demand charge credits relating to the portion of the curtailment volumes for the period June through November 1971.

5) That Transco, in accordance with the Settlement Agreement approved by the Federal Power Commission, filed a tracking provision seeking to recover the $3,424,184 it refunded by increasing the rates of the affected rate schedules by .7¢ per Mcf. The .7¢ per Mcf was arrived at by dividing $3,424,184 by the volume of gas delivered under the affected rate schedules which amounted to 464,595,703 Mcf

and covers the same period for which the credits were calculated.

Transco under the Settlement Agreement simply refunded the curtailment credits of $3,424,184 to its customers and then filed a tracking rate in the amount of .7¢ per Mcf to recover these dollars from its customers. The tracking increase of .7¢ per Mcf will terminate when Transco collects from its customers the $3,424,184.

6) That Transco will track the demand charge credits for the period, December 1971 through April 15, 1972. Transco is authorized under the Settlement Agreement to file to recover demand charge credits once each quarter. The tracking of demand charge credits terminates April 15, 1972, in accordance with the Settlement Agreement.

7) That the filing by United Cities in this docket was made under the provisions of G.S. 62-133(f) and it submitted the data required by the Commission in its Order in Docket No. G-100, Sub 14.

Based on the foregoing Findings of Fact, the Commission arrives at the following

CONCLUSIONS

The Commission, in approving increases in rates occasioned by the increase in the cost of gas to gas distributors in North Carolina pursuant to G.S. 62-133(f), has provided that refunds received by North Carolina distributors be placed in a restrictive account for further orders of the Commission. This provision was inserted in the recently issued United Cities tracking filing in Docket No. G-1, Sub 32 and G-1, Sub 33 issued on January 18, 1972.

United Cities has received the amount of $3,613.19 in refunds applicable to its North Carolina operation relating to the demand charge curtailments which were refunded by credit to the cost of gas on the December 1971 gas bill of United Cities from Transco. The credits cover a six-month period.

The increased rates applied for herein seek to recover from its customers an amount equivalent to refund made to United Cities by Transco if equated to an equivalent time period. If the Commission authorizes the rates as herein applied for and requires United Cities to refund the refunds received by United Cities from Transco by credits to the gas bill over the same time period, it is obvious that one would tend to cancel the other and that no benefit would occur to United Cities customers or to United Cities.

The Commission further believes that on analysis this increase is not the type of increase in rates contemplated by the Legislature in accordance with G.S. 62-133(f).

The Commission is of the opinion that for the reasons stated herein that the request by United Cities to increase its rates to track the curtailment credits for the demand charge adjustments as filed herein should be denied.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

That the Application filed by United Cities Gas Company for authority to increase its rates and charges on January 7, 1972, to become effective on February 6, 1972, in Docket No. G-1, Sub 34, is hereby denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-1, SUB 35

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
United Cities Gas Company,	)	ORDER APPROVING INCREASED
Filing of Increased Rates to	)	RATES AND ESTABLISHING
Recover Increases in Cost of	)	PROCEDURES TO RECOVER
Gas to it from its Supplier	)	INCREASED COST OF GAS

BY THE COMMISSION: On June 30, 1972, United Cities Gas Company (United Cities) filed with the North Carolina Utilities Commission (Commission) an Application in Docket No. G-1, Sub 35 for authority to increase its rates by 1.8¢ per Mcf, said increases to become effective August 1, 1972.

This filing was made to recover increases in cost of gas to United Cities from Transcontinental Gas Pipe Line Corporation (Transco). The above increases sought to be recovered by United Cities result from the approval of the interim settlement agreement by the Federal Power Commission in Transco Docket No. RP71-118 on November 15, 1971. These increases in cost of gas from Transco result from the fact that Transco, under its present supply conditions, cannot deliver to United Cities full contract volumes and is not expected to be able to deliver full contract volumes in the foreseeable future.

Transco makes no reduction in the cost of gas for the curtailed volumes and the demand charges related thereto. Under these circumstances United Cities receives less gas but pays the same demand charge which results in an increase in cost of gas to United Cities.

In accordance with the settlement provisions, Transco increased its rates to United Cities effective February 1,

1972, in the amount of .7¢ per Mcf. This increased rate will permit Transco to recover curtailment credits paid to its customers in the amount of $3,424,184.

In Transco's second filing under the settlement agreement, it seeks to recover $6,557,437 covering the curtailment credits for the months of December 1971 and January and February 1972, by increasing its rates by 1¢ per Mcf effective May 1, 1972, to United Cities and to its other customers, which increased rates will remain in effect until such time as Transco will recover $6,557,437 of curtailment credits paid to its customers plus additional credits for March 1 through April 15, 1972. From April 16, 1972, through November 15, 1972, Transco will make no adjustment in the cost of gas relating to curtailed volumes and the demand charge applicable thereto.

Notice to the public was given by United Cities as required by the Commission.

This Application was filed pursuant to G.S. 62-133(f) and in accordance with the Commission's Order in Docket No. G-100, Sub 14, which establishes procedures for utilities in order to recover increased cost of gas where occasioned by an increase in wholesale cost of gas from its suppliers.

Based on the data filed by United Cities pursuant to G-100, Sub 14, the Commission makes the following

FINDINGS OF FACT

1) That United Cities is a public utility subject to the jurisdiction of the North Carolina Utilities Commission and authorized to do business in the State of North Carolina.

2) That the increase in cost of gas to United Cities results from the settlement agreement filed by Transco and approved by the Federal Power Commission in Docket No. RP71-118 in which settlement agreement the customers of Transco, in this case United Cities, has received credits to its gas bills through February 1972 and will receive additional credits to April 15, 1972. These demand charge credits will be recovered by Transco through increased rates to United Cities pursuant to the settlement agreement. United Cities, through this transaction, does not recover its increased cost of gas unless it is authorized to collect increased rates.

3) That from April 16 through November 15, 1972, United Cities will continue to pay the demand charge related to curtailed volumes; however, no tracking by Transco of this amount is provided for in the settlement agreement. Said curtailments will result in increased cost of gas to United Cities throughout this period.

4) That the rate of return allowed by this Commission to United Cities in its last general rate of return case, Docket No. G-1, Sub 30 at December 15, 1972, was 7.99 percent on end of the period rate base.

5) That the rate of return earned by United Cities Gas Company in Docket No. G-1, Sub 35 of 7.59 percent on end of the period rate base had decreased from that found to be just and reasonable by the Commission in Docket No. G-1, Sub 30.

Based on the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1) That the increase applied for herein by United Cities is an increase in the cost of gas as provided for in G.S. 62-133(f) and should be allowed to become effective pursuant to the procedures established by the Commission in Docket No. G-100, Sub 14.

2) That the rate of return of United Cities has decreased from that found to be just and reasonable by the Commission in Docket No. G-1, Sub 30, the last general rate case, after adjusting for the increased rate applied for and the increased cost of gas from its suppliers.

3) That the amount of increase in cost of gas to United Cities from Transco will vary from month to month depending on the amount of gas curtailed and that in order to enable United Cities to recover only the increased cost of gas to it from its supplier in a uniform and systematic manner, United Cities should be allowed to increase its rates by 1.80¢ per Mcf. In order to assure that United Cities recovers only the increase in cost of gas, United Cities should be required to establish a memoranda account entitled Curtailment Credits for Tracking of Gas Cost (memoranda account) recording as debits all demand charges relating to curtailment volumes for the period provided for in the interim settlement agreement and to credit said memoranda account with the revenues received (less gross receipts tax) by United Cities from the filed tariffs to become effective on August 1, 1972. The requested increase of 1.80¢ per Mcf applicable to all rate schedules should permit United Cities to recover the increased cost of gas related to curtailment volumes within a reasonable period of time.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That the tariffs filed by United Cities Gas Company, to become effective August 1, 1972, be, and are hereby, approved.

2) That United Cities Gas Company shall establish a memoranda account entitled Curtailment Credits for Tracking of Gas Cost, recording as debits all demand charges relating

to curtailed volumes and crediting to said account the revenues received from the increase in rates as provided herein (less gross receipts tax), until said account approaches a zero balance; and when this account approaches a zero balance, United Cities Gas Company shall file on one day's notice revised rate schedules terminating the increase in rates herein granted.

3) That this memoranda account shall be credited with any dollar amount recorded in Account No. 253 that has been accumulated by United Cities Gas Company, as provided for in this Commission's Order in Docket No. G-100, Sub 4.

4) That United Cities Gas Company, Inc., shall submit to the Commission its initial entries on its records as provided for herein and, further, shall submit monthly statements of the transactions in the memoranda account, using sub-account numbers to identify the activity in this account by the Federal Power Commission and the North Carolina Utilities Commission docket numbers.

5) That this Order shall remain open for such further orders of the Commission as may be required.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of July, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-1, SUB 36

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
United Cities Gas Company - Authority	) ORDER GRANTING
to Issue and Sell $2,000,000 Principal	) AUTHORITY TO
Amount of 8-1/2% First Mortgage Bonds,	) ISSUE AND SELL
Series F, Due September 1, 1995	) SECURITIES

This cause comes before the Commission upon Application of United Cities Gas Company (Company), filed under date of July 24, 1972, through its Counsel, McLendon, Brim, Brooks, Pierce and Daniels, Greensboro, North Carolina, wherein authority of the Commission is sought as follows:

To issue and sell at private placement $2,000,000 principal amount of First Mortgage Bonds, Series F, due September 1, 1995, to bear interest at the rate of 8-1/2% per annum.

FINDINGS OF FACT

1. The Company is a corporation organized and existing under the laws of the States of Illinois and Virginia and is duly authorized to engage in the business of transporting, distributing and selling gas and is a public utility under the laws of the State of North Carolina and in its operations are subject to the jurisdiction of this Commission.

2. The Company has outstanding $9,125,000 principal amount of its First Mortgage Bonds, $700,000 principal amount of Sinking Fund Notes, $968,000 aggregate par value of 5-3/4% cumulative preferred stock, $940,000 aggregate par value of 7.10% cumulative preferred stock, $1,000,000 aggregate par value of 10-1/2% cumulative preferred stock and 472,720 shares of common stock having a par value of $3.33-1/3 per share.

3. The Company proposes to issue and sell $2,000,000 in principal amount of First Mortgage Bonds, Series F, 8-1/2% due September 1, 1995, at private placement under a Bond Purchase Agreement with The Lincoln National Life Insurance Company at a price equal to 100% of the principal amount of said bonds plus accrued interest, if any, to date of delivery.

4. Construction expenditures to improve, facilitate and extend its services totaled $2,870,000 during the period April 1, 1971, through March 31, 1972, and the Company proposes to spend in carrying out its program of construction and extension of services, approximately $2,000,000 during the year 1972.

5. The net proceeds to be derived from the sale of the bonds will be used for the partial repayment of outstanding short-term borrowings used for construction purposes.

6. The expenses estimated to be incurred in the sale of the First Mortgage Bonds will approximate $13,480.

CONCLUSIONS

From a review and study of the Application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so finds that the transactions herein proposed are:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public as a utility and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED, That United Cities Gas Company be, and it is hereby, authorized, empowered and permitted under the terms and conditions set forth in the Application:

1. To issue and sell $2,000,000 principal amount of First Mortgage Bonds, Series F, due September 1, 1995, to bear interest at the rate of 8-1/2% per annum;

2. To execute and enter into a Bond Purchase Agreement for the sale of the Bonds;

3. To execute and enter into an Eighth Supplemental Indenture for the sale of the Bonds to be dated September 1, 1972;

4. To use and apply the net proceeds from the issuance and sale of the securities described herein to the purposes set forth in the Application;

5. To file with the Commission, when available in final form, one copy each of the Eighth Supplemental Indenture and Bond Purchase Agreement; and

6. To 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 14th day of August, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. G-9, SUB 99

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Piedmont Natural Gas Company, Inc. - Application for Authority to Issue and Sell $14,000,000 Principal Amount of 8-1/4% Debentures, Series Due April 1992	)))))	ORDER APPROVING ISSUE AND SALE OF BONDS

This cause comes before the Commission upon an Application of Piedmont Natural Gas Company, Inc. (Company), filed under date of April 12, 1972, through its Counsel, McLendon, Brim, Brooks, Pierce & Daniels, Greensboro, North Carolina, wherein authority of the Commission is sought as follows:

1. To issue and sell $14,000,000 aggregate principal amount of 8-1/4% Debentures, Series due 1992 (the New Debentures);

2. To execute and deliver an Escrow Agreement and Debenture Purchase Agreements with and to the several purchasers indicated therein; and

3. To execute and deliver a Third Supplemental Indenture, dated as of April 1, 1972, to an original indenture dated as of May 1, 1963.

FINDINGS OF FACT

1. The company is incorporated under the laws of the State of New York; is duly domesticated under the laws of the State of North Carolina; is engaged in the business of transporting, distributing and selling natural gas in the States of North Carolina and South Carolina; is a public utility as defined in Article I of Chapter 62, General Statutes (G.S. 62-1 -- 62-4) of North Carolina; and its operations in this State are subject to the jurisdiction of the North Carolina Utilities Commission.

2. This Commission has previously granted the company a Certificate of Convenience and Necessity authorizing it to acquire certain gas franchises and properties in the State of North Carolina, and the company now holds franchises and is furnishing natural gas to customers in 42 cities and towns located in 14 counties in North Carolina.

3. The company in order to meet the increasing demands for gas and to facilitate, improve and extend its services has spent $15,844,819 ($12,678,903 in North Carolina) during the period April 1, 1970, through December 31, 1971, and proposes to spend approximately $14,225,000 during 1972.

4. The company proposes to issue and sell the New Debentures to the private institutional investors indicated in the Debenture Purchase Agreements at a price of 100% of the principal amount thereof plus an amount equal to interest, if any, accrued on the New Debentures to the date of sale.

5. The New Debentures are to be issued under an Indenture dated as of May 1, 1963, as heretofore supplemented and modified, and as further supplemented by a Third Supplemental Indenture dated as of April 1, 1972.

6. A portion of the proceeds from the sale of the New Debentures will be used to retire credit notes which were or are to be incurred to meet construction expenditures. The balance of the proceeds will be applied to the remainder of the 1972 construction program.

CONCLUSIONS

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 concludes that the issuance and sale of the securities herein proposed under the terms and conditions set forth are:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

IT IS, THEREFORE, ORDERED that Piedmont Natural Gas Company, Inc., be, and it hereby is, authorized, empowered and permitted:

1. To execute Debenture Purchase Agreements and Escrow Agreements in substantially the form attached to this Petition and to deliver said Debenture Purchase Agreements to the Purchasers indicated therein;

2. To execute and deliver to the Trustee a Third Supplemental Indenture to an Original Indenture dated as of May 1, 1963;

3. To issue and sell $14,000,000 principal amount of 8-1/4% Debentures, Series due 1992;

4. To devote the proceeds to be derived from the issuance and sale of the securities described herein to the purposes set forth in the Application;

5. To file with the Commission, when available in final form, one copy each of the Third Supplemental Indenture and the Underwriting Agreement;

6. To file with this Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted within a period of thirty (30) days following the completion of the transactions authorized herein; and

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

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of April, 1972.

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

DOCKET NO. G-9, SUB 96

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Piedmont Natural Gas Company, Inc., for Authority to Adjust its Rates and Charges	)))	ORDER APPROVING UNDERTAKING UNDER G.S. 62-135

BY THE COMMISSION: Upon consideration of the Undertaking filed by the Applicant Piedmont Natural Gas Company, Inc. (hereinafter called "Piedmont"), on September 28, 1972, asserting that Piedmont has the right to place into effect certain of the increases requested in this Docket under the provisions of G.S. 62-135 entitled "Temporary Rates Under Bond" on all bills rendered by it to its customers on and after October 10, 1972, said increases being included within those rate increases sought by the Application filed with the Commission by Piedmont on March 7, 1972, subject to the 20% limitation on any single rate classification imposed by G.S. 62-135 for temporary rates under bond, and said Undertaking of Piedmont having been filed under the provisions of G.S. 62-135 which allows a public utility the right to put rates suspended by Order of the Commission into effect upon the posting of a bond on Undertaking at the expiration of six months after the date when such rates would have become effective if not suspended and when the Commission has not issued a final order pursuant to said rate application, and it appearing that Piedmont did file a rate application in this Docket and that said rates were suspended by said Order of the Commission dated March 14, 1972, and that the six-month period after which G.S. 62-135 affords Piedmont the right to place certain of the requested increases into effect under bond or Undertaking has expired, and that the Undertaking to make refund filed by Piedmont September 28, 1972, is filed under a right conferred by G.S. 62-135 and is in proper form to allow said increases to be effective on service rendered after ten days' notice has been given to Piedmont's customers, subject to the maximum of 20% on any single rate classification imposed by G.S. 62-135 and beginning with service rendered on and after October 10, 1972.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Undertaking filed by the Applicant on September 28, 1972, be, and the same hereby is, approved, and the Applicant may place into effect the tariffs identified in the Undertaking as Exhibit 2 BBBBBB to the Third Amendment to the Amended Petition as temporary rates in accordance with G.S. 62-135 subject to refund with

interest at the rate of 6% per annum as to all amounts so collected by Piedmont which are in excess of the rates found to be just and reasonable by the Utilities Commission.

2. That the Applicant Piedmont is hereby ordered to post a copy of said Undertaking and a copy of this Order Approving Undertaking in its business offices and at all places where provision is made to receive payment of bills by its customers and to issue a general news release and give the requisite notice to customers advising of its action in placing the rate increases into effect under G.S. 62-135, with said news release to be substantially in the form of the Exhibit A attached to this Order.

3. That Piedmont shall keep its books and records of all amounts collected under said Undertaking in a form and manner so that they may be audited by representatives and agents of the Utilities Commission and properly accounted for under said Undertaking.

4. That Piedmont shall duly report to the Commission all amounts so collected by said Undertaking by monthly reports filed with the Commission within 15 days after the end of each calendar month during which increases are collected under said Undertaking.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

EXHIBIT A

PIEDMONT NATURAL GAS COMPANY, INC.
CHARLOTTE, NORTH CAROLINA
NOTICE OF TEMPORARY INCREASE IN RATES
UNDER UNDERTAKING FOR REFUND

Pursuant to the provisions of G.S. 62-135 of the North Carolina General Statutes entitled "Temporary rates under bond", Piedmont Natural Gas Company, Inc., has notified its customers that it will put into effect temporary rate increases not exceeding 20% on any single rate classification on and after October 10, 1972, said temporary increases being a part of the general rate increase request filed by the company with the North Carolina Utilities Commission on March 7, 1971, in Docket No. G-9, Sub 96, which is now under investigation and pending completion of final determination by the Utilities Commission.

Piedmont Natural Gas Company, Inc., will refund, in a manner to be prescribed by Order of the Utilities Commission, to its customers entitled thereto the amount of any excess, if any, with interest thereon at the rate of 6%

per annum, by which the temporary rates put into effect pursuant to this notice and the Undertaking filed are in excess of the rates finally determined to be just and reasonable by the Utilities Commission.

This _____day of October, 1972.

PIEDMONT NATURAL GAS COMPANY, INC.

By_____
J. David Pickard, President

DOCKET NO. G-5, SUB 86

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Public Service Company of North Carolina, Inc., for an Adjustment of Rates and Charges Under G.S. 62-133(f)	)	ORDER APPROVING UNDERTAKING

BY THE COMMISSION: On September 28, 1972, the Commission issued an order suspending the tariffs filed by Public Service Company of North Carolina, Inc. (Public Service), in this docket. On October 6, 1972, Public Service filed a Motion in which it requested the Commission to vacate its Order of Suspension previously entered by the Commission on September 28, 1972. The Motion further requested that the Commission approve the Undertaking filed by Public Service in lieu of a bond as permitted in G.S. 62-135 and further that the tariffs filed by Public Service be allowed to go into effect on all bills on and after October 1, 1972.

The Commission is of the opinion that Public Service's request that the Commission vacate its Order of Suspension issued on September 28, 1972, should be denied and that the Undertaking submitted by Public Service dated October 4, 1972, be accepted as an undertaking in lieu of bond as allowed in G.S. 62-135.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1) That the request of Public Service Company of North Carolina, Inc., that the Commission vacate its Order of Suspension issued September 28, 1972, be, and is hereby, denied.

2) That the Undertaking submitted by Public Service Company of North Carolina, Inc., dated October 4, 1972, be, and is hereby, approved.

3) That Public Service Company of North Carolina, Inc., file tariffs on one day's notice, which tariffs are to become effective on all bills rendered on and after October 31, 1972.

4) That Public Service Company of North Carolina, Inc., file monthly statements showing the amount of money collected pursuant to the authority herein granted, which report is due 30 days after the close of business of the preceding month.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. H-60

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of the Lenoir Housing Authority	)	
for a Certificate of Public Convenience and	)	ORDER
Necessity for the Establishment of 100	)	GRANTING
Dwelling Units of Low-Rent Public Housing.	)	CERTIFICATE

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on May 2, 1972, at 10:20 A.M.

BEFORE: Commissioners Miles H. Rhyne, Presiding, Marvin R. Wooten and Hugh A. Wells

APPEARANCES:

For the Applicant:

John F. Bost, III, Esq.
Carpenter & Bost
Attorneys at Law
204 S. Mulberry Street
Lenoir, North Carolina 28645

For the Commission Staff:

William E. Anderson, Esq.
Assistant Commission Attorney
North Carolina Utilities Commission
Ruffin Building
One West Morgan Street
Raleigh, North Carolina 27602

RHYNE, COMMISSIONER: This matter is before the Commission upon application of the Housing Authority of Lenoir County, North Carolina, for a Certificate of Public Convenience and Necessity for the establishment, construction and maintenance of 100 dwelling units of low-rent public housing.

By order dated March 6, 1972, the Commission set the application for public hearing on May 2, 1972, and ordered that notice of the hearing be published in a newspaper having general circulation in the area once each week for two successive weeks.

No protests to the application were filed with the Commission and no one appeared in opposition to the application.

Upon the opening of the hearing applicant caused to be introduced into evidence its verified application and various exhibits and the affidavit of publication of the notice of the hearing. In addition, applicant offered the

testimony of Mr. Sam Howard, Executive Director and Secretary for the Lenoir Housing Authority.

Based upon the evidence the Commission makes the following:

FINDINGS OF FACT

1. The Housing Authority of the City of Lenoir is a duly created and existing body corporate pursuant to the Housing Authority Law as set forth in Chapter 157 of the North Carolina General Statutes.

2. The Housing Authority caused its application to be properly filed with the Commission on March 2, 1972, in which it applied for a Certificate of Public Convenience and Necessity for the establishment of 100 dwelling units of low-rent housing. On March 6, 1972, the Commission issued notice to the public of the application, setting the time, date and place of the hearing, and requiring that the Commission's notice be published in a newspaper having general circulation in the Lenoir, North Carolina, area for two successive weeks prior to the date for filing protests. Said notice was published in the Lenoir News-Topic on April 18 and 25, 1972.

3. The City Council of the City of Lenoir by resolution, dated November 1, 1967, has determined that there exists in the City of Lenoir a need for low-rent public housing and gave approval of establishing the Housing Authority; an application was entered for 300 dwelling units and that upon application to the Federal Department of Housing and Urban Development, a plan for 100 dwelling units was ultimately developed and is now being pursued. The application was approved and the preliminary funds have been received.

4. There is a need for low-rent public housing in the area of the City of Lenoir which the private sector of the residential construction industry in and around the City of Lenoir is not meeting.

5. The Lenoir Housing Authority has taken all steps required by law to enable it to duly make this application and to put itself in a position to establish and develop 100 units of low-rent public housing.

Based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

The Housing Authority of the City of Lenoir, North Carolina, has met the requirements of law with respect to the construction, maintenance and operation of 100 units of low-rent public housing and they have demonstrated a need for said additional housing in the community.

IT IS, THEREFORE, ORDERED that the Housing Authority of the City of Lenoir, Lenoir, North Carolina, be, and hereby is, granted a Certificate of Public Convenience and Necessity for the establishment, construction, maintenance and operation of 100 units of low-rent public housing and that this order shall constitute such Certificate of Public Convenience and Necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. H-61

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of the Lenoir Housing Authority for a Certificate of Public Convenience and Necessity for the Establishment of 100 Dwelling Units of Low-Rent Public Housing in the City of Dunn, North Carolina.	) RECOMMENDED) ORDER) GRANTING) CERTIFICATE)

HEARD IN: The Commission Library, Ruffin Building, Raleigh, North Carolina, on July 28, 1972, at 2:00 P.M.

BEFORE: Hearing Examiner William E. Anderson

APPEARANCES:

For the Applicant:

Wiley F. Bowen, Esq.
Wilson, Bowen & Lytch
P.O. Box 151, Dunn, North Carolina 28334

ANDERSON, HEARING EXAMINER: This matter is before the Commission upon application of the Housing Authority of the City of Dunn, North Carolina, for a Certificate of Public Convenience and Necessity for the establishment, construction and maintenance of 100 dwelling units of low-rent public housing.

By Order of June 26, 1972, the Commission set the application for public hearing on May 2, 1972, and ordered that notice of the hearing be published in a newspaper having general circulation in the area. No protests to the application were filed with the Commission and no one appeared in opposition to the application.

Upon the opening of the hearing, the Applicant introduced into evidence its various exhibits and the affidavit of publication of the notice of the hearing. In addition, Applicant offered the testimony of Mr. George H. Carroll, Chairman of the Dunn Housing Authority.

Based upon the evidence the Commission makes the following:

FINDINGS OF FACT

1. that the Housing Authority of the City of Dunn is a duly created and existing body corporate pursuant to the Housing Authority Law as set forth in Chapter 157 of the North Carolina General Statutes.

2. That the Housign Authority caused its application to be properly filed with the Commission of June 23, 1972, in which it applied for a Certificate of Public Convenience and Necessity for the establishment of 100 dwelling units of low-rent housing. By Order of June 26, 1972, the Commission set the time, date and place for hearing the matter and required that notice be published in a newspaper having general circulation in the Dunn, North Carolina, area for two weeks prior to the date for filing protests. Said notice was published in the Dunn Dispatch, a daily paper in Dunn, North Carolina, on June 28, 1972, and July 5, 1972.

3. That the City Council of the City of Dunn by resolution, dated July 27, 1972, has determined that there exists in the City of Dunn a need for low-rent public housing and gave approval of established the Housing Authority; an application was entered for 506 dwelling units and that upon application to the Federal Department of Housing and Urban Development, a plan for 100 dwelling units was ultimately developed and is now being pursued. The application was approved and the preliminary funds have been received.

4. That there is a need for low-rent public housing in the area of the City of Dunn which the private sector of the residential construction industry in and around the City of Dunn is not meeting.

5. That the Dunn Housing Authority has taken all steps required by law to enable it to duly make this application and to pub itself in a position to establish and develop 100 units of low-rent public housing.

Based upon the foregoing Findings of Fact, the Hearing Examiner reaches the following

CONCLUSIONS

The Housing Authority of the City of Dunn, North Carolina, has met the requirements of applicable law with respect to acquiring a Certificate of Public Convenience and Necessity

for the construction, maintenance and operation of 100 units of low-rent public housing and has demonstrated a need for said additional housing in the community.

IT IS, THEREFORE, ORDERED that the Housing Authority of the City of Dunn, North Carolina, be, and hereby is, granted a Certificate of Public Convenience and Necessity for the establishment, construction, maintenance and operation of 100 units of low-rent public housing and that this order shall itself constitute such Certificate of Public Convenience and Necessity.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of August, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. B-303

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Jack L. Land, d/b/a Highland Tours, Route 2,)
Box 880, Asheville, North Carolina) ORDER

HEARD IN: The Commission's Hearing Room, Raleigh, North Carolina, on January 6, 1972, at 10:00 A.M.

BEFORE: Commissioner John W. McDevitt, Presiding, and Commissioners Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

Jack L. Land
Route 2, Box 880, Asheville, North Carolina
Appearing For: Himself

For the Commission's Staff:

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

No Protestants.

BY THE COMMISSION: By application filed with the Commission on October 22, 1971, Jack L. Land, d/b/a Highland Tours, Route 2, Box 880, Asheville, North Carolina, seeks authority as a common carrier under the provisions of the North Carolina Public Utilities Act to engage in the transportation of passengers by motor vehicle in sight-seeing tours from Asheville to various specified points of scenic interest in western North Carolina.

Notice of said application was given by the Commission to all existing authorized motor carriers of passengers within the affected area. Notice was also published by the Applicant in a newspaper of general circulation in the territory proposed to be served once each week for two (2) successive weeks prior to the hearing date. An affidavit of said newspaper publication has been filed with the Commission.

Protest to the application was filed by T. R. Young, d/b/a Asheville-Elk Mountain Bus Lines. Protestant, however, did not appear at the hearing and the application is otherwise unopposed.

The evidence tends to show that Applicant proposes to offer a tour service from Asheville to various points of scenic interest within the Asheville area over certain

routes which are identified as Tours A, B, C, D, E and F - Tour A being from Asheville to Cherokee and return; Tour B being from Asheville eastward to Marion, Wiseman's View and Lake James and return; Tour C being from Asheville to Biltmore and the Biltmore Estates and return; Tour D being from Asheville to Blowing Rock, Tweetsie Railroad and Blue Ridge Parkway and return; Tour E being from Asheville to Mt. Mitchell and return; and Tour F being from Asheville south to Brevard and Cashiers and return.

Applicant testified that he has had the feeling for a long time that there was a public need for the service proposed; that if the authority is granted, he intends to begin the operation in May of this year with two (2) small fifteen (15) passenger Dodge van type buses with air conditioning, carpeting, etc. As an example, Applicant testified that one (1) tour will leave Asheville around 8:30 in the morning after picking up passengers at motels and various places and go north on the Blue Ridge Parkway to Mt. Mitchell, stopping there for about 30 minutes and letting passengers get out and look at the view, then proceed on to Little Switzerland, stopping there for lunch, which will be included in the fare, that from Little Switzerland the tour will proceed on the Blue Ridge Parkway to Linville Falls, where the bus will take a gravel road to Wiseman's View for a stop for viewing and picture taking and then proceed down the south rim of Linville Gorge for eighteen (18) miles down an unpaved road through primitive country to Lake James and then proceed back to Asheville; that the same bus will be used for an evening tour beginning around 6:00 P.M. in the evening and proceeding down U. S. Highway I-40 to McDowell House for dinner, which will also be included in the fare, then from McDowell House the tour will proceed up Highway 221 to Linville Falls and Wiseman's View, which, incidentally, is the best vantage point to view the Brown Mountain Lites, after which the tour will proceed back to Asheville, arriving there at approximately 12:15 A.M. Another tour will leave at 8:30 in the morning for Brevard, Lake Toxaway, Cashiers and Highlands for lunch and then to Cullasaja Gorge, Franklin, Sylva and Balsam Gorge and back to Asheville. The same bus will then be cleaned up, gassed and made ready for another tour which will leave Asheville at 6:00 P.M., proceed to Pisgah View Ranch for dinner, which is also included in the fare, where there will be square dancing and browsing in the gift shop, after which the tour will proceed to Mount Pisgah to watch the sunset and back to Asheville at about 11:00 or 11:30 P.M. All of the tours include meals.

Applicant further testified that the tours will be sold through the reservation desks in various motels and that the Asheville Motel and Tourist Association have agreed to put brochures describing the tours in the rooms for the information of guests.

The application is supported, among others, by the Asheville Area Chamber of Commerce, the Mayor of the City of

Asheville, the Chairman of the Buncombe County Board of Commissioners, the Holiday Inns in the Asheville area, the Ramada Inns, the Sheraton Motor Inn and the Asheville Tourist Association.

Upon consideration of the application and the evidence adduced, the Commission makes the following

FINDINGS OF FACT

(1) That public convenience and necessity require the service proposed in addition to existing authorized transportation service,

(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.

CONCLUSIONS

While Applicant was frank to admit that he has had no experience in the bus business, he did not believe that this would be a deterrent and the Commission is inclined to agree with him. It is certainly evident that Applicant has given a great deal of study and thought to this venture prior to filing the application herein.

For many years, a tour service such as that proposed has been provided in the Asheville area by Smoky Mountain Tours under authority from this Commission similar to that which Applicant seeks. From all indications, Smoky Mountain Tours has discontinued a great portion if not all of the tour service which it has heretofore provided and the Asheville area is presently without a tour service, the need for which has been demonstrated. Upon consideration of the facts found and the evidence presented, the Commission is of the opinion and concludes that the application should be granted.

IT IS, THEREFORE, ORDERED:

(1) That Jack L. Land, d/b/a Highland Tours, Route 2, Asheville, North Carolina, be, and he is, hereby authorized to engage in the transportation of passengers by motor vehicle in sightseeing tours, more particularly described in Exhibit A attached hereto and made a part hereof.

(2) That Jack L. Land, d/b/a Highland Tours, Route 2, Asheville, North Carolina, file with the Commission evidence of insurance, lists of equipment, tariff of rates and charges, 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 of this order.

(3) That by reason of his failure to appear at the hearing, the protest of T. R. Young, d/b/a Asheville Elk Mountain Bus Lines, is hereby dismissed.

BY ORDER OF THE COMMISSION.

This the 31st day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Highland Tours
Jack L. Land, d/b/a
Asheville, North Carolina Docket No. B-303

EXHIBIT A (1) Transportation of passengers in round-trip sightseeing or pleasure tours as follows:

EXHIBIT A (2) From Asheville to any of the following points: Cherokee, Wiseman's View, Lake James, Linville Gorge, Biltmore, Biltmore Estate, Blowing Rock, Tweetsie Railroad, Lenoir, Mount Mitchell, Brevard, Cashiers and other points of scenic interest in western North Carolina, subject to the following conditions:

For sightseeing and pleasure tours only. On each such tour, the passengers must maintain their identity as a group for the duration of the tour and must be accompanied by a tour conductor or guide (who may be the driver of the vehicle qualified to act as the tour conductor or guide).

DOCKET NO. B-69, SUB 113

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Queen City Coach Company - Petition to Discontinue Service between Wilmington and Fort Fisher over U. S. Highway 421 and Abandonment of Certificated Authority over said Route	)	RECOMMENDED ORDER AUTHORIZING DISCONTINUANCE OF SERVICE

HEARD IN: Town Hall Auditorium, Carolina Beach, North Carolina, on September 1, 1972

BEFORE: Commissioner John W. McDevitt

APPEARANCES:

For the Petitioner:

R. C. Howison, Jr.
Joyner & Howison
Wachovia Bank Building
Raleigh, North Carolina

For the Commission Staff:

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

McDEVITT, HEARING COMMISSIONER: This matter is before the Commission upon the petition of Queen City Coach Company, Charlotte, North Carolina (hereinafter called "Queen City"), filed on August 2, 1972, to discontinue service between Wilmington, North Carolina, and Fort Fisher, North Carolina, over U. S. Highway 421, and to abandon its certificate of operating authority over said route, including abandonment of service to intermediate points on said route at Southerland's Store, Robinson's Store, Inland Waterway, Carolina Beach, Kure Beach, Fort Fisher, and Fort Fisher Museum, North Carolina.

By order entered on August 15, 1972, the Commission set the petition for public hearing to be held in the Town Hall Auditorium, Carolina Beach, North Carolina, on August 31, 1972. The hearing was subsequently continued to September 1, 1972.

Upon the calling of the hearing, the Petitioner offered affidavits of posting of notice of the proposed discontinuance of service and the hearing thereon and publisher's certificate of publication of said notice in a newspaper of general circulation in the area.

Upon the call of the hearing, the Petitioner presented the testimony of Mr. Malcolm Myers, Waxhaw, North Carolina, Director of Traffic of Queen City, who testified that the Petitioner had lost money on the operation of the route from Wilmington along U. S. Highway 421 through Carolina Beach to Fort Fisher during the summer months of operation in June, July, and part of August, 1972; that during said months Petitioner had an average of 6.5 passengers per schedule run on said route, with an average revenue of $.65 per passenger, with total income of $2,270.61, with a cost of operation of $6,331.25, and would have a loss on the operation as projected through September 4, 1972, of $5,401.77; that the Petitioner has operated three trips per day on said route, leaving Wilmington at 7:15 a.m., 1:15 p.m., and 5:15 p.m., and arriving at Fort Fisher Museum 45 minutes later, and returning immediately from Fort Fisher and arriving back in Wilmington at 8:45 a.m., 3:00 p.m., and 7:15 p.m., respectively; that said run was 21 miles in each

direction; that the cost of operation to Queen City for its buses is 72.84 cents per mile, and that the average revenue per bus mile on the Wilmington-Fort Fisher run was 26.12 cents per mile; that the $5,000 loss for the three summer months' operation had to be subsidized by other routes and was not economically feasible for continued operation; that the total company operating ratio for Queen City for the period January through July, 1972, was 99.24%; and that the company operations were such that the routes losing money could not be subsidized as in the past.

Following the close of the Petitioner's case, certain public witnesses testified as follows:

Mrs. W. W. Lewis, Carolina Beach, testified that she used the bus daily from Carolina Beach to Wilmington to commute to work.

Mr. Jack H. Webb, Town Manager of Carolina Beach, testified of his concern that the service be continued and inquired if the Town of Carolina Beach could obtain the franchise.

Mr. Ronnie Pernell, Kure Beach, testified that he operated a motel in Kure Beach, and that the motel's employees commuted from Wilmington to Kure Beach on the bus in question.

Mr. Allen Herring, Carolina Beach, testified that he operated a pier and restaurant and that his business depended upon employees commuting from Wilmington on the bus.

Mr. S. L. Doty, Kure Beach, testified that he could see the problems as to Queen City continuing the service and indicated that the Town of Carolina Beach should try to get involved in a substitute bus operation.

Mr. Thomas Keeter, Kure Beach, testified that he is retired and depends upon the bus for necessary travel.

Based upon the evidence, the Hearing Commissioner makes the following

FINDINGS OF FACT

1. That the Petitioner is a North Carolina corporation holding a franchise to provide service as a common carrier of passengers and is subject to the jurisdiction of the Commission pursuant to the North Carolina Public Utilities Act, including jurisdiction over this petition to discontinue its service between Wilmington and Fort Fisher over U. S. Highway 421, and to abandon its Certificate of Public Convenience and Necessity for said route.

2. That appropriate notice has been given to the public of the hearing in this case and of the proposed

discontinuance of the service, as required by Commission rules.

3. That the Petitioner is suffering fiscal and financial loss on the operation of the Wilmington to Fort Fisher route, and that there are no prospects that the passenger load does or will justify the continued operation of the route by the Petitioner between Wilmington and Fort Fisher.

4. That at the present time there is not a sufficient use of the service by the public for it to appear likely that the service could be operated other than at a loss.

Whereupon, the Hearing Commissioner reaches the following

CONCLUSIONS

The public convenience and necessity no longer justifies or supports the continued operation of Queen City of the Wilmington to Fort Fisher route over U. S. Highway 421, serving intermediate points, and the operation of said route is not economically feasible for the Petitioner, and the Petitioner should be allowed to discontinue the service as it has proposed and to abandon its certificate of operating authority over said route.

The abandonment of operating authority of Queen City leaves the route open for any person, corporation, either private or public, to seek means of securing bus service between Wilmington and Fort Fisher. The Mayor of the Town of Carolina Beach has indicated that the Town of Carolina Beach would seek any means possible to find another operator for said franchise who might be able to operate without the overhead costs of the Petitioner, Queen City, and to operate on a more economical basis, and that the town and other interested parties in Carolina Beach and other points along the route should seek means of promoting or assisting such operation by a bus operator with lower overhead costs who could operate the service on a more economical basis.

The Hearing Commissioner further concludes that such parties should have ample notice of this order that the route has been abandoned by the Petitioner, Queen City Coach Company. The present service was on a summer months' basis only, extending from June 1, 1972, through Labor Day 1972, and was suspended for the season on September 4, 1972, under the franchise as it existed, and would not have been resumed, even if the franchise was continued, until June 1, 1973. All interested parties thus have from the time of this order until June 1, 1973, to investigate all possible means of securing other parties or corporations or associations who would seek means of resuming the service now discontinued, on or before June 1, 1973.

IT IS, THEREFORE, ORDERED:

1. That the Petitioner, Queen City Coach Company, be, and hereby is, authorized to discontinue service between Wilmington and Fort Fisher over U. S. Highway 421 and to abandon its certificate of authority over said route effective with the effective date of this order.

2. That the Petitioner file appropriate schedule changes reflecting the abandonment of its service between Wilmington and Fort Fisher.

3. That passenger common carrier Certificate No. B-69 be, and is hereby, amended to delete therefrom the route hereinabove described.

4. That a copy of this order shall be forwarded by first-class mail to the Mayors of Carolina Beach, Kure Beach, and to each of the public witnesses appearing in this proceeding so that they may have notice of the abandonment by Queen City Coach Company of its certificate to provide service between Wilmington and Fort Fisher over U. S. Highway 421 and to be advised that said route and franchise would be available to any party or corporation or other proper association who would apply therefor and demonstrate that it is fit, willing, and able to operate said franchise.

ISSUED BY ORDER OF THE COMMISSION.

This the 2nd day of November, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. B-15, SUB 168
DOCKET NO. B-7, SUB 84
DOCKET NO. B-79, SUB 18
DOCKET NO. B-30, SUB 45
DOCKET NO. B-110, SUB 16
DOCKET NO. B-69, SUB 110
DOCKET NO. B-84, SUB 29
DOCKET NO. B-17, SUB 15
DOCKET NO. B-24, SUB 19

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Specified Motor Common Carriers of)
Passengers for Authority for Special Operations in)
Round-trip Sightseeing and Pleasure Tours in) ORDER
Designated Areas in North Carolina)

HEARD IN: The Commission's Hearing Room, Raleigh, North Carolina, on December 17, 1971, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicants:

Arch T. Allen and Thomas W. Steed, Jr.
Allen, Steed and Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
Appearing For: Carolina Coach Company

J. Ruffin Bailey and Ralph McDonald
Bailey, Dixon, Wooten and McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina
Appearing For: Greyhound Lines, Inc.

David L. Ward, Jr.
Ward, Tucker, Ward & Smith
Attorneys at Law
310 Broad Street
New Bern, North Carolina
Appearing For: Seashore Transportation Co.

Clarence H. Noah
Attorney at Law
1425 Park Drive
Raleigh, North Carolina
Appearing For: Southern Coach Company

Kenneth Chilton
Piedmont Coach Lines, Inc.
3636 Glenn Avenue
P. O. Box 4082, Winston-Salem, North Carolina
Appearing For: Piedmont Coach Lines, Inc.

R. C. Howison, Jr.
Joyner & Howison
Attorneys at Law
Wachovia Bank Building
Raleigh, North Carolina
Appearing For: Queen City Coach Company
Smoky Mountain Stages, Inc.
Carolina Scenic Stages, Inc.

Louis J. Fisher, Jr.
Attorney at Law
First Union Bank
High Point, North Carolina
Appearing For: City Transit Company of High Point

For the Commission's Staff:

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

For the Protestants:

J. Ruffin Bailey and Ralph McDonald
Bailey, Dixon, Wooten and McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina
Appearing For: Greyhound Lines, Inc.

Arch T. Allen and Thomas W. Steed, Jr.
Allen, Steed and Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina
Appearing For: Carolina Coach Company

T. R. Young, d/b/a
Asheville-Elk Mountain Bus Line
943 Riverside Drive
Asheville, North Carolina
Appearing For: Himself

BY THE COMMISSION: By application filed with the Commission on September 10, 1971, Carolina Coach Company, 1201 South Blount Street, Raleigh, North Carolina, makes application under the provisions of the Public Utilities Act for authority to transport passengers and their baggage over irregular routes in special operations - round-trip sightseeing or pleasure tours, beginning and ending at points in certain counties, generally those within which Applicant holds regular route passenger authority, and extending to points in North Carolina.

Subsequent thereto, similar applications were filed by Greyhound Lines, Inc., on October 18, 1971; by Seashore Transportation Company on October 22, 1971; by Southern Coach Company on October 29, 1971; by Piedmont Coach Lines, Inc., on November 5, 1971; by Queen City Coach Company on November 8, 1971; by Smoky Mountain Stages, Inc., on November 8, 1971; by Carolina Scenic Stages on November 8, 1971, and by City Transit Company of High Point on November 24, 1971.

By order of the Commission dated December 6, 1971, all of the above applications were consolidated for hearing on December 17, 1971.

Within apt time, protests to the applications of City Transit Company of High Point and Piedmont Coach Lines, Inc., were filed by Greyhound Lines, Inc., and Carolina Coach Company. In addition, T. R. Young, d/b/a Asheville-Elk Mountain Bus Lines filed a Motion and Notice of Protest

to the applications of Greyhound Lines, Inc., and Queen City Coach Company and was permitted by the Commission to intervene in this proceeding as his interests may be made to appear.

At the call of the case, Applicants amended their applications to eliminate the reference to counties as originating territory and to substitute in lieu thereof the following language to describe the territory within which such service would be offered:

"...in round-trip sightseeing or pleasure tours, to all points and places in North Carolina, said trips to originate and end at points at which charter service may be originated under the provisions of G. S. 62-262(h) and Rule R2-67 of the North Carolina Utilities Commission."

The above described amendment was agreed to by all parties whereupon Greyhound Lines, Inc., and Carolina Coach Company withdrew their protests to the applications of City Transit Company of High Point, Inc., and Piedmont Coach Lines, Inc. T. R. Young, d/b/a Asheville-Elk Mountain Bus Line, who had been allowed by the Commission to intervene, indicated that the amendment also cleared up any objection which he had to the applications of Greyhound Lines, Inc., and Queen City Coach Company.

The evidence tends to show that Applicants are seeking authority which they do not now hold; namely, to arrange round-trip sightseeing or pleasure tours from points within their authorized charter territory to points throughout the State of North Carolina; that the service proposed differs from charter service in that the tours will be offered to the public on an individual basis and may include in addition to transportation: lodging, meals, admission to places of interest, outdoor dramas, ski slopes, etc.

Said applications are supported by Variety Vacations & Sports Enterprises, Inc., through its President, Mr. George B. Jones, who as a representative of the consuming public, offered testimony designed to show that there is a very real public need for the service proposed by Applicants herein.

Upon consideration of the applications and the evidence adduced, the Commission makes the following

FINDINGS OF FACT

(1) That Carolina Coach Company, Greyhound Lines, Inc., Seashore Transportation Company, Southern Coach Company, Piedmont Coach Lines, Inc., Queen City Coach Company, Smoky Mountain Stages, Carolina Scenic Stages and City Transit Company of High Point hold certificates of public convenience and necessity from this Commission authorizing the transportation of passengers by bus over certain specified routes within the State of North Carolina,

(2) That public convenience and necessity requires the service proposed by each of the applications herein in addition to existing authorized transportation service,

(3) That each of the Applicants is fit, willing and able to properly perform the proposed service, and

(4) That each of the Applicants is solvent and financially able to furnish the proposed service adequately and on a continuing basis.

CONCLUSIONS

Motor passenger transportation as heretofore authorized by this Commission has been limited to regular route service over franchised routes with the incidental privilege of originating charter service from the territory served by said routes, as prescribed in Rule R2-67(3), which reads as follows:

> "A common carrier may originate charter service at any point on its regular route, and at any point not served by another common carrier within five (5) air-line miles of its regular route. Points more than five (5) air-line miles from the regular route of any common carrier shall be deemed open territory for the purpose of originating charter service, and any common carrier may originate charter service at any such point."

The applications as amended will simply permit Applicants to offer a service on an individual basis which for all practical purposes is already available on a group basis for charter parties who presently must make all incidental arrangements themselves, while the bus company furnishes only transportation. As proposed, Applicants will arrange the tours well in advance of the departure date and through advertisement and solicitation, offer individual package tours to the public.

Based upon the record, the evidence presented in this case and the foregoing findings of fact, it is the conclusion of the Commission that Applicants have borne the burden of proof required by Statute and that the applications as amended should be granted.

IT IS, THEREFORE, ORDERED:

(1) That the certificates of Carolina Coach Company, Greyhound Lines, Inc., Seashore Transportation Company, Southern Coach Company, Piedmont Coach Lines, Inc., Queen City Coach Company, Smoky Mountain Stages, Carolina Scenic Stages and City Transit Company of High Point be, and the same are, hereby amended to include the authority more particularly described in Exhibit A attached hereto and made a part hereof.

(2) That Applicants file with the Commission tariffs of rates and charges 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 of this order.

ISSUED BY ORDER OF THE COMMISSION.

This the 13th day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. B-15, SUB 168	Carolina Coach Company
DOCKET NO. B-7, SUB 84	Greyhound Lines, Inc.
DOCKET NO. B-79, SUB 18	Seashore Transportation Company
DOCKET NO. B-30, SUB 45	Southern Coach Company
DOCKET NO. B-110, SUB 16	Piedmont Coach Lines, Inc.
DOCKET NO. B-69, SUB 110	Queen City Coach Company
DOCKET NO. B-84, SUB 29	Smoky Mountain Stages
DOCKET NO. B-17, SUB 15	Carolina Scenic Stages
DOCKET NO. B-24, SUB 19	City Transit Company of High Point

EXHIBIT A Transportation of passengers and their baggage over irregular routes in special operations - round-trip sightseeing or pleasure tours, to all points and places in North Carolina, said trips to originate and end at points at which charter service may be originated under the provisions of G.S. 62-262(h) and Rule R2-67 of the North Carolina Utilities Commission.

DOCKET NO. B-245, SUB 8

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suburban Coach Company, Incorporated - Petition to Discontinue Operating over its Morganton - Oak Hill Route) RECOMMENDED ORDER

HEARD IN: County Commissioners' Room, New Courthouse, Burke County, Morganton, North Carolina, on Wednesday, April 19, 1972

BEFORE: Hearing Examiner William E. Anderson

APPEARANCES:

For the Applicant:

Lawrence C. Stoker, Esq.
Attorney at Law

P. O. Box 7291, Asheville, North Carolina 28807
(Appearance as counsel was withdrawn
in favor of presenting Applicant's
evidence as a witness.)

ANDERSON, HEARING EXAMINER: This matter arose upon the filing by Suburban Coach Company, Incorporated, of a Petition to discontinue its operations over the Morganton - Oak Hill route.

The Commission issued an Order on the 16th day of February, 1972, reciting that it appears to the Commission that Suburban Coach Company, Incorporated, may have discontinued, curtailed, or abandoned service on its Oak Hill route without proper compliance with the Public Utility Act and notice requirements, the Order of the Utilities Commission further directing Suburban Coach Company, Incorporated, to provide motor passenger service to Oak Hill, North Carolina, in accordance with that carrier's Timetable No. 2, effective on December 6, 1971, until further order of this Commission.

Further, by Petition and timetable filed on February 24, 1972, Suburban Coach Company, Incorporated, Morganton, North Carolina, seeks Commission approval of deletion of the Oak Hill to Morganton route. The Commission set this matter for hearing for Thursday, April 13, 1972; on its own motion, the Commission continued the matter. The matter came on for hearing at the designated time and place.

Mr. Lawrence C. Stoker filed an appearance slip as counsel for the Petitioner, but withdrew said appearance to testify as a witness for the Petitioner.

Mr. Lawrence C. Stoker, President of Suburban Coach Company, Incorporated, testified that the Petitioner had been operating under its Timetable No. 2 since November 1971, and at the time of the Commission Order issued on February 16, 1972, was continuing to operate schedules in accordance with Timetable No. 2; that Schedule B filed on February 22, 1972, with the new proposed Timetable No. 1 shows the revenue which Suburban Coach Company, Incorporated, had received beginning November 1 through November 17; that this revenue derived from the Oak Hill run is not sufficient to operate; that the revenue decrease on this run resulting from the loss of school children business caused by school runs now being operated by Burke County since the beginning of the school year 1971-72, and the loss of some business because of those persons working in town having found other ways to come into town; that the run itself could not support a full-time driver; that the Suburban Coach Company, Incorporated, in November 1971, attempted to adjust its schedule in order that the Oak Hill run might continue and bring in additional revenue, but this schedule adjustment failed and the revenue did not increase; that in February 1972, the total revenue was $19.39 or an average of 92¢ a day; in March, the total

revenue was $39.07 or an average daily revenue of $1.70; in the first twelve days of April, the revenue was $12.57; that daily operating expenses are $12.45 per day; that two ladies ride the bus almost regularly in the morning and two or three others, or maybe four, regularly ride out from Morganton in the afternoons; that the Lake James run was combined with the Oak Hill run after December 6, but "we could not meet our schedules so we had to put back that extra bus. We were trying to operate the Oak Hill and Lake James on one bus." (Tr. 14); under the combined operations, Highway 126 between Morganton and Lake James was joined with the highway between Oak Hill and Morganton, by way of operating on State Road 1248, a dirt road, between Lake James and Oak Hill; under the combined operations, the Lake James patrons arrived in Morganton late; the combined operations were performed for "I would say two or three weeks, maybe a month" (Tr. 16); that the Petitioner tried to use an Econline 9-passenger bus, but "the passengers were not happy with it" (Tr. 16).

Mrs. Mabel Reynolds testified that she lives four and three-quarters miles from Morganton in the Oak Hill community; that she does not understand how the run is twelve miles long; that approximately a year ago, the drivers began to tell the patrons that the bus was going to be discontinued; that the Lake James bus does not have many more passengers than the Oak Hill bus; that the Oak Hill patrons would be willing to pay more for the service; that the patrons got disgusted with the driver indicating the bus would be discontinued and began to get other ways to go into town; that the patrons are quite willing to go home via Lake James because "it doesn't take but a few minutes longer and that short distance of dirt road is not bad" (Tr. 20); she rode the bus when it was combined with the Lake James run two afternoons; during the month of February, she did not have any work and two days she got a ride because she was not sure the bus was running; she never rode the small bus; she heard that it ran one morning, but she never saw it; one morning this week there were three regular riders and some mornings there is only one, some mornings, two, and some mornings, three; this morning there were two riders into Morganton from Oak Hill.

Mrs. Louise Lewis testified that the Oak Hill run is the only way she has to get home in the afternoon; that in February, she attempted to catch the bus one morning and it never ran and didn't pick her up the rest of the week; that she was informed by Mr. Patton, the driver, that the run had been taken off and that he was not supposed to be making the run now; that during this time, "some of the people said it was running,. . ." (Tr. 24); so she went back to riding it some.

Mrs. Maggie Rutherford testified that if the patrons knew the bus service would be continued, then they would continue to ride it, but they got confused and did not know what to do and found other ways of getting to town; they started

getting their own cars when they had to work overtime; that when employees of the bus company told people they were going to take it off, people had found other ways to get to town; and that "if they kept it on, people would ride regular all the time". (Tr. 26)

Mr. Lawrence C. Stoker testified, as a rebuttal witness, that the Petitioner had not missed any runs at all under Timetable No. 2 after getting permission from the Commission to discontinue the 7:15 run. In his opinion, when Mrs. Lewis was referring to a run being discontinued, she was referring to the 7:15 a.m. run rather than the 5:40 a.m. run; the 7:15 run was discontinued in November with the consent of the Commission; that the Lake James run is more profitable because it runs in conjunction with the Tip Top run and also the run to Rutherford College and Drexel; a large number of persons who live on the Lake James run between State Road 1248 and Morganton ride the bus.

Whereupon the Hearing Examiner makes the following

FINDINGS OF FACT

1. That the Petitioner is a North Carolina corporation holding a franchise to provide service as a common carrier of passengers and subject to the jurisdiction of this Commission for the purposes set out in the North Carolina Public Utilities Act, including this Petition to discontinue service on the Oak Hill - Morganton run.

2. That the Petitioner has given notice to the public as required by N.C.U.C. Rule R2-47.

3. That the Petitioner, in November 1971, filed a revised Timetable effective December 6, 1971, which combined the early morning and afternoon Oak Hill runs with the comparable Lake James runs and provided service on a combined basis for a limited period of time.

4. That the Petitioner concluded that combined operations were not feasible, and reverted to providing service on a separate basis.

5. That the Petitioner herein proposes to discontinue service between Oak Hill and Morganton, to wit, two round trips daily, leaving Morganton at 5:20 a.m. for Oak Hill, leaving Oak Hill at 5:50 a.m. for Morganton; leaving Morganton at 4:20 p.m. for Oak Hill, and leaving Oak Hill at 4:50 p.m. for Morganton.

6. That the 5:50 a.m. run to Morganton and the 4:20 p.m. run to Oak Hill provide a daily commuter service into and out of Morganton which is used somewhat regularly by several ladies who frequently work in Morganton.

7. That numerous persons who were patrons in prior years no longer use the commuter service; it is no longer used by

school children who are now transported by the county, and it is no longer used by some working people who now drive automobiles to work or have found other transportation.

8. That at the present time there is not a sufficient use of the service by the public for it to appear even remotely likely that the service could be operated other than at a loss.

9. That at the present time the daily commuter service between Oak Hill and Morganton serves the convenience and need of a small number of individuals who rely on it for their transportation; there is, however, no substantial need for the service by the general public, as opposed to the recognized need for the service by a few individuals.

Whereupon, the Hearing Examiner reaches the following

CONCLUSIONS

The exhibits and testimony of the Petitioner, the testimony of the public witnesses, and the facts found above, lead this Hearing Examiner, regretfully, to conclude that the Petition must be granted, and the Petitioner allowed to discontinue the service as proposed. The Hearing Examiner further concludes, however, that the service should be continued for a reasonable time in order for the remaining patrons to obtain other transportation; accordingly, the service should be provided up to, and including, Friday, June 16, 1972, and may be terminated only upon twenty (20) days' notice to the public to be given by posting in buses.

It is further noted that this route discontinuance has the effect of abandoning a portion of the franchise held by the Petitioner in accordance with Passenger Common Carrier Certificate No. B-245; the Certificate should, therefore, be amended by deleting the Oak Hill - Morganton route.

IT IS, THEREFORE, ORDERED:

1. That the Petitioner be, and is hereby, authorized to eliminate the 5:20 A.M. and 4:20 P.M. schedules from Morganton to Oak Hill, the 5:50 A.M. and 4:50 P.M. schedules from Oak Hill to Morganton, effective June 17, 1972, upon twenty days' notice to the public, to be given by posting in buses.

2. The Petitioner's Timetable No. 1, filed on February 24, 1972, to become effective March 20, 1972, be, and hereby is, adopted, to become effective June 17, 1972.

3. That Passenger Common Carrier Certificate No. B-245 be amended to delete therefrom the route hereinabove described.

ISSUED BY ORDER OF THE COMMISSION.

This the 23rd day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. B-305

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Tours of the Lower Cape Fear, Inc., 102 Colonial Drive, Wilmington, North Carolina - Application for Broker's License	)	RECOMMENDED ORDER GRANTING BROKER'S LICENSE

HEARD IN: The Hearing Room of the Commission, Raleigh, North Carolina, on Tuesday, November 21, 1972, at 3:00 p.m.

BEFORE: Commissioner John W. McDevitt

APPEARANCES:

For the Applicant:

Mr. Miles C. Higgins
President
Tours of the Lower Cape Fear, Inc.
Route 3, Box 76AA
Wilmington, North Carolina 28401

For the Commission Staff:

Mr. William E. Anderson
Assistant Commission Attorney
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

McDEVITT, COMMISSIONER: This matter arose upon the filing of an application by Tours of the Lower Cape Fear, Inc., on September 26, 1972, in which the Applicant seeks statewide authority to engage in the business of a broker under §62-263 and §62-3 of the North Carolina Public Utilities Act. By letter filed September 26, 1972, the Applicant sought a temporary license to honor commitments already made for a tour on October 17-20, 1972, utilizing Continental Trailways transportation for a tour from Wilmington to Western North Carolina and return. The Commission allowed the Applicant to honor its commitments by brokering the one tour, provided that the transportation service was performed by a duly certificated common carrier and the $5,000 transportation broker's bond required by N.C.U.C. Rule R2-66 was filed in advance of the transportation.

On October 9, 1972, the Commission issued its order setting the application for hearing and dismissing that portion of the application seeking authority to use owned or leased vehicles for the transportation of passengers, inasmuch as that portion of the application appeared to seek common carrier authority and is inconsistent with requirements for a broker's license.

The matter came on for hearing at the time and place previously advertised. The testimony and exhibits of the Applicant's officers included the affidavit of publication and a copy of a transportation broker's surety bond as required by §62-263 of the Public Utilities Act. Mr. Miles C. Higgins and Mrs. Atha K. Jones testified regarding the nature of the proposed service and the experience of the Applicant's officers in organizing and conducting tours. The Applicant offers two tours at the present time. One, called a foliage tour, is a tour of Western North Carolina and lasts for several days. The Applicant utilizes the transportation services of a common carrier, Continental Trailways, at the tariff rate, and provides the traveler with both transportation and accommodations. The other tour is a Wilmington historical tour conducted within the Wilmington area, usually under contract with a local business or convention group, utilizing the transportation service of the local taxi company, which provides Volkswagon-type buses under an exempt operation.

Based upon the record herein, the Commission makes the following

FINDINGS OF FACT

1. That the Applicant seeks a broker's license as described in G. S. 62-263(a) to engage in the business of a broker in intrastate operations within the State of North Carolina.

2. That the Applicant has applied for said license upon the form of Application as prescribed by this Commission.

3. That the Applicant gave due notice of this hearing.

4. That the experience of the officers of the Applicant herein establishes that the Applicant is fit, willing, and able to properly perform the proposed service and to conform with the provisions of law and Commission rules and regulations.

5. That the Applicant proposes to use the services of regulated common carriers where the transportation is of such a nature that the area should be regulated; on the other hand, where the transportation operation is within the city or municipal zone of Wilmington, North Carolina, the Applicant will utilize the services of a carrier exempt from common carrier regulation by this Commission.

6. That the Applicant has filed a bond suitable to be approved by this Commission in the amount of $5,000 in accordance with N.C.U.C. Rule R2-66.

7. That the Applicant is neither an employee or agent of any motor carrier.

8. That the proposed service is desired by the public and will be utilized by the public.

9. That the service as proposed upon the hearing of this matter to be authorized under said license is consistent with the public interest.

Whereupon the Commissioner reaches the following

CONCLUSIONS

The Applicant herein has satisfactorily borne the burden of proof in establishing that it should be licensed to engage in the business of a broker in intrastate operations within this State. The Commission by prior order has dismissed that portion of the application herein relating to business other than that business properly characterized as brokerage and the Applicant herein does not seek authority to engage in those operations in the nature of a common carrier.

The proposal of the Applicant to utilize an exempt carrier within the commercial zone of the City of Wilmington is not inconsistent with Rule R2-66(b)(2) requiring that "the Applicant proposes to engage only those motor carriers authorized by the Commission to transport passengers as common carriers by motor vehicles in intrastate commerce in North Carolina." The exempt carrier is in fact authorized to engage in such transportation by virtue of its exempt status.

Upon hearing and consideration of this matter this Commissioner, to whom it was assigned for hearing, concludes that the Applicant herein should be issued a license to engage in the business of a broker subject to the regulation of this Commission.

IT IS, THEREFORE, ORDERED:

1. That the Applicant be, and hereby is, granted a broker's license to engage in the business of a broker in intrastate operations within the State of North Carolina.

2. That this order shall constitute said license until such time as a license shall have been issued.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. B-305
EXHIBIT A

Tours of the Lower Cape Fear, Inc.
102 Colonial Drive
Wilmington, North Carolina

To engage in business as a broker in intrastate commerce in the following territory:

Between all points and places within the State of North Carolina.

DOCKET NO. B-24, SUB 21

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of City Transit Company of High Point - Proposed Increase in One-Way Adult Passenger Fares, Effective September 11, 1972. (Suspended)	)))))	ORDER GRANTING RATE INCREASE

HEARD IN: Chamber of Commerce Meeting Room, 704 N. Main Street, High Point, North Carolina, on Friday, October 13, 1972, at 10:30 A.M.

BEFORE: Chairman Marvin R. Wooten (Presiding) and Commissioners Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

Louis J. Fisher, Jr.
Fisher & Fisher
Attorneys at Law
P. O. Box 1846, High Point, North Carolina

For the Commission Staff:

Maurice W. Horne
Assistant Commission Attorney
N. C. Utilities Commission
Ruffin Building
Raleigh, North Carolina

No Protestants.

WOOTEN, CHAIRMAN: This matter arises upon application filed by City Transit Company of High Point (Applicant) on August 8, 1972, proposing an increase in its one-way adult passenger fares, scheduled to become effective September 11, 1972.

The Commission, being of the opinion that the proposed increase in fares and practices in connection therewith was a matter affecting the public interest, concluded that the application and involved tariff schedule should be suspended, an investigation instituted and the matter assigned for hearing with the view of determining whether said application was just, reasonable and otherwise lawful. The Commission required that notice to the public be published by the Applicant in a newspaper having general coverage in the High Point, North Carolina, area.

By Order, the matter was set for hearing at the time, date and place captioned. No protests to the proposed increase in fares and charges were received by the Commission prior to the hearing, and no formal intervention was filed and no one appeared at the hearing to oppose the application.

Notice of the proposed increase in fares and charges was published by the Applicant as required by law in a newspaper having general circulation in the High Point area and notice was also placed in the Applicant's buses as required by Commission rules.

The Applicant presented evidence which tended to show that since its existing fares and charges were made effective by the Commission, the Applicant has experienced increased cost and a reduction in customers with respect to its operations. Specifically, the evidence tended to show that the Applicant's operating ratio was as follows for the years indicated:

1970	99.2%
1971	106.1%
1972	113.5%

The Applicant's evidence further indicated that the cost of insurance to the company has doubled since 1971 and continues to increase; that prior to October 1971, their insurance rate was 3.1%, on October 1971, the insurance rate was increased to 7.7% and on October 1972, said rate increased 8.1%; that number of passengers has decreased steadily over the past several years; that the revenue trends have been downward for the last several years; that the company has attempted to cut some of its routes which was disallowed by the Commission; that redevelopment and relocation of people in High Point has cut down on the number of passengers; that shopping centers have slowed downtown traffic; that all of the routes of this bus company originate and terminate in downtown High Point; that the company operates eight local buses; that the company employs its eight drivers at a rate of $1.90 an hour; that the

company has recently lost the opportunity to haul school children on school days; that the company uses exterior advertising but revenues therefrom have been reduced; that the routes of the Applicant fall into one or two categories, "bad" or "worse"; that the bus business is like swimming upstream; that the company has not had an increase in its fares and charges in over three years; that the company uses its buses for a period of 12 to 15 years though they would prefer a life of 8 to 10 years; that the company received four rate increases in the past 10 years; that there is usually some result of loss in traffic when rates are increased; that the 5¢ per fare increase requested in this application may not reduce the company's operating ratio to below 100%; that the company's operating ratio was in excess of 100% in 1971 and that 1972 shows further decline and thereby a further increase in the operating ratio; and that the company has tried every avenue, including request for subsidies, to reduce its operating ratio with negative results.

The Applicant introduced into evidence its application and requested the Commission to take judicial notice of its annual reports, which was allowed, and presented evidence regarding the giving of notice by publication and otherwise.

Upon the conclusion of its case, the Applicant tendered the President and General Manager of the bus company, Mr. Herman Fulk.

Mr. I. H. Hinton and Mr. James C. Turner, of the Commission Staff, were sworn and testified. Mr. Hinton testified and presented exhibits which are of record explaining the effect of the rate increase herein requested and comparing the same with previous rate levels.

Mr. James C. Turner, of the Commission Accounting Staff, testified that he had made a study of City Transit's operating losses and that he found that since 1969 this carrier had suffered a loss of 29.7% of its revenue passengers; that the company had a loss of 19.2% of its passenger revenues; that the Applicant realized a 5.8% decrease in total operating expenses; that unit operating expenses increased by 8.7% from 1969 through 1971; that there was a unit revenue decrease during said period of 6.7%; that the operating expense accounts of Transportation (including Station expense) and Administrative and General Expenses required more of each revenue dollar in 1971 than was required in 1969; that salaries and expenses of general officers required more from each revenue dollar in 1971 than was required in 1969; that during the period 1969 to 1971, there was no increase in salaries for officers or employees of the bus company; that the net carrier operating income for the Applicant, if the rate increase in this docket is granted, is by no means impressive; however, it was pointed out that the business was totally owned by Mr. and Mrs. Herman Fulk, who as officers of the company received wages and expense payments in 1971 of $21,594; that the operating

ratio of the carrier based upon its annual report for the year 1971, excluding officers' wages and expenses, to be 88.7% and including such wages and expenses to be 106.1%; that passenger fare increases will in all probability result in further accelerated passenger losses for this carrier; that the people who are in need of this carrier's service are those people who can least afford to pay higher fares; that the requested fare increase is not the answer to City Transit's financial problems; but that the same is at best a very short-term interim type solution to the intracity passenger carrier's financial problems, which appear to be prevalent throughout North Carolina and that if other solutions to the passenger loss problem are not found, passenger fares will increase to a level that will prohibit the general public's use of the services now offered by North Carolina intracity passenger carriers, including the Applicant.

Upon consideration of the record and the evidence in this proceeding, the Commission makes the following

FINDINGS OF FACT

1. That City Transit Company of High Point is wholly owned by Mr. and Mrs. Herman Fulk, who are officers and employees of said corporation and that said corporation holds a franchise and operating authority from this Commission as an intracity carrier of passengers by motor vehicle for the City of High Point, North Carolina, and vicinity, and is subject to the jurisdiction of the North Carolina Utilities Commission for the purpose of fixing its rates and charges.

2. That the Applicant herein proposes to increase one-way adult cash fares 5¢ each.

3. That the Applicant has experienced significant increases in its cost of operation.

4. That the Applicant sustained a net operating loss for the twelve-month period ending December 31, 1971, and June 30, 1972, resulting in an operating ratio for 1971 of 106.1% and a projected operating ratio for 1972 of 113.5% without a rate increase.

5. That Applicant's employees have not received a wage increase since 1969; that Applicant has suffered a loss of 29.7% of its revenue passengers and of 19.2% of its passenger revenues and at the same time a decrease of 5.8% in total operating expenses.

6. That since the company's last increase in rates in 1969, inflation has increased the company's cost approximately seventeen to eighteen percent and the number of passengers riding the Applicant's buses has decreased substantially, all necessitating rate relief.

7. That the increases in the Applicant's fares and charges as requested in the application herein are necessary to enable the carrier to provide and maintain adequate bus transportation service and earn a reasonable return upon property devoted to public use; and that even though the rate increase as projected may not reduce the carrier's operating ratio below 100%, it will substantially reduce the losses resulting from said operations and is considered to be fair, just and reasonable in the light of the fact that the carrier is wholly owned by Mr. and Mrs. Herman Fulk, whose wages and expenses for the year 1971 were in the amount of $21,594.

8. That notice to the public of the Applicant's increase was published as required by law and placed in the Applicant's buses.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS OF LAW

1. The Commission concludes that the proposed increases in fares and charges with respect to one-way adult fares from 25¢ to 30¢ and to increase its one-way adult fares from 30¢ to 35¢ are just and reasonable and should be authorized to become effective.

2. The Commission further concludes that the Applicant has carried the burden of proof required by law to establish that its proposed increases in its rates and charges are just, fair, reasonably equitable and otherwise lawful.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Order of Suspension entered in this docket on the 7th day of September, 1972, be, and the same is, hereby vacated and set aside.

2. That the Applicant, City Transit Company of High Point, be, and it is, hereby authorized to make appropriate tariff filing on one day's notice to place the fares and charges in Tariff No. 6, N.C.U.C. No. 6, in full, in effect.

ISSUED BY ORDER OF THE COMMISSION.

This the 25th day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. B-209, SUB 6

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of Duke Power Company for	)	
Authority to Place Into Effect an Exact Bus	)	ORDER
Passenger Fare Plan Including Adjustments in	)	GRANTING
Certain Fares in the Cities of Durham and	)	APPLICATION
Greensboro, North Carolina	)	IN PART

BY THE COMMISSION: By Application filed September 18, 1972, with the Commission Duke Power Company (Applicant), 422 South Church Street, Charlotte, North Carolina 28201, seeks authority to place into effect an exact bus passenger fare plan and to adjust certain fares in the Cities of Durham and Greensboro, North Carolina, to become effective September 18, 1972.

Applicant proposes to continue to offer five adult tickets for 90 cents if purchased in its business office but will offer five adult tickets for $1.00 if purchased on the bus, in both Cities of Durham and Greensboro. For school children, Applicant proposes to continue to offer tickets or cash fare of ten cents, both from its business office or bus operator. However, in Durham school children tickets will continue to be five for 40 cents when sold from its business office in Durham or ten cents each when purchased from the bus operator.

Applicant states that one of its drivers in Greensboro was robbed at gun point on July 31, 1972, at about 11:46 p.m., of approximately $56.00 of company monies and $4.00 of his own, and that the sole purpose of the proposed exact fare plan is to enable the drivers to discontinue carrying change funds. Applicant further states that the condition which warrants such plan is the increasing threat to the safety of drivers which their possession of the change fund poses.

Upon consideration of the application and the circumstances in this matter as a whole, the Commission is of the opinion, finds and concludes, that Applicant should be allowed to place the proposed exact fare plan, including the adjustments of certain fares as hereinabove mentioned, in effect on October 1, 1972, in lieu of September 18, 1972, and that Applicant should give notice of its proposal by publication in newspapers having general circulation in the Durham and Greensboro, North Carolina, areas, of a Notice in regard thereto as set forth in Appendix A attached hereto and made a part hereof.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That the Application of Duke Power Company for authority to place in effect the exact fare plan and to make adjustments in certain of its bus fares as hereinabove

mentioned be, and the same is hereby, allowed to become effective October 1, 1972.

(2) That Applicant give Notice of its proposal by publication in newspapers having general circulation in the Durham and Greensboro, North Carolina, areas, of a Notice in regard thereto as set forth in Appendix A attached hereto and made a part hereof, twice in each paper prior to October 1, 1972. Proof of publication required.

(3) That Applicant be, and same is hereby, authorized to make appropriate tariff filings containing the exact fare plan and adjustments in certain of its bus passenger fares as hereinabove authorized, which publications may be made on one (1) day's notice to the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of September, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX A
DOCKET NO. B-209, SUB 6

Duke Power Company - Proposed Exact Fare Plan and Adjustments in Certain Fares in the Cities of Durham and Greensboro, North Carolina.) NOTICE

NOTICE IS HEREBY GIVEN OF A PROPOSAL BY DUKE POWER COMPANY TO PLACE INTO EFFECT AN EXACT FARE PLAN AND TO ADJUST CERTAIN FARES IN DURHAM AND GREENSBORO, NORTH CAROLINA.

Duke Power Company has filed an Application with the North Carolina Utilities Commission proposing to place into effect an exact fare plan and to adjust certain fares in the Cities of Durham and Greensboro, North Carolina.

Under the exact fare plan no change is proposed in either the fares for adults or school children if tickets are purchased at the bus company (Duke Power Company) business offices in Durham and Greensboro. However, when purchasing tickets from the Applicant's bus operators in Durham or Greensboro, the adult tickets will be 5 for $1.00 or exact cash fare of 20 cents, and tickets for school children will be 10 cents each or 10 cents cash fare.

Under the exact fare plan the bus driver will not have any change and no rider can board the bus without a ticket or the correct change for the exact fare, unless by placing his excess amount tendered in the fare box, subject to receipt and collection of the correct change later at the company office, for amounts of change due of 10 cents or more.

The proposed exact fare plan and adjustments in certain fares has been authorized by the North Carolina Utilities Commission to become effective October 1, 1972.

This the 19th day of September, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

NOTICE TO PRINTER: Charges to be paid by Duke Power Company.

DOCKET NO. B-105, SUB 30

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Suspension and Investigation of Proposed Revision in)
Bus Express Rates and Charges on Shipments of Cut) ORDER
Flowers and Florists' Materials and Supplies.)

HEARD IN: The Commission Hearing Room, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on November 18, 1971

BEFORE: Chairman Harry T. Westcott (Presiding); Commissioners Marvin R. Wooten and Miles H. Rhyne

APPEARANCES:

For the Respondents:

J. Ruffin Bailey
Bailey, Dixon, Wooten & McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602
Appearing For: Motor Bus Common Carriers

For the Protestants:

Bernard A. Harrell
Wolff & Harrell
Attorneys at Law
401 Oberlin Road
Raleigh, North Carolina
Appearing For: North Carolina State Florists Association

For the Commission Staff:

William E. Anderson
Assistant Commission Attorney
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: National Bus Traffic Association, Inc., Agent, for and on behalf of its member carriers, filed with the Commission on June 24, 1971, a tariff schedule proposing a revision in bus express rates and charges applicable to North Carolina intrastate shipments of Cut Flowers, Ferns (Green) and Florists' Materials and Supplies, scheduled to become effective August 1, 1971, and the Commission being of the opinion that the said tariff revision affected the rights and interest of the public, issued an Order on July 7, 1971, suspending the schedule, instituted an investigation into the justness and reasonableness thereof, made parties to said tariff filing respondents and assigned to those carriers the burden of proving said revised rates and charges to be just, reasonable and otherwise lawful. The Order dated July 7, 1971, assigned the matter for hearing on November 17, 1971. A Supplemental Order dated August 17, 1971, required Respondents to give notice of the time, place and purpose of the hearing by the publication in regard thereto in the following newspapers:

Citizen-Times, Asheville, North Carolina
Observer-News, Charlotte, North Carolina
Journal-Twin City Sentinel, Winston-Salem, North Carolina
News Record, Greensboro, North Carolina
News & Observer-Times, Raleigh, North Carolina
Evening Telegram, Rocky Mount, North Carolina
Observer, Fayetteville, North Carolina
Sun-Journal, New Bern, North Carolina
Star News, Wilmington, North Carolina
Advance, Elizabeth City, North Carolina

with said publication to be made not more than fifteen (15) nor less than ten (10) days prior to the date of said hearing. On September 14, 1971, the Commission issued an Order changing the date of the hearing from November 17, 1971, to November 18, 1971.

Notice to the public was duly given as required by law and the rules of the Commission. Affidavits of publication were introduced into the record.

The matter came on for hearing as scheduled and respondents presented five (5) witnesses, to wit: P. J. Campbell, Malcolm Myers, Aaron Cruise, R. C. O'Brien and John Atkins. Protestant presented one witness, John Mundy. The Commission's Staff presented one witness, I. H. Hinton.

Mr. P. J. Campbell, Chairman, National Bus Traffic Association, Inc., Agent, presented testimony tending to show that the involved motor bus common carriers were proposing to eliminate the exception rates applicable to the transportation of cut flowers, ferns (green), and florists' materials and supplies and to make said shipments subject to the same rates as are applicable to other shipments of general commodities between points within the State of North

Carolina which became effective May 1, 1971; that the proposed tariff filing will result in uniform express rates for North Carolina intrastate and interstate traffic, and that the proposal will result in shipments of Cut Flowers and Florists' Materials and Supplies being subject to the same Density Factor and the determination of rates and charges on the basis of the actual aggregate weight or the computed weight of the shipment, whichever is greater, as currently published in Rule No. 2(c)(2) of Southeastern Express Tariff No. A-604-C, N.C.U.C. No. 227. This witness further testified that several Respondents have made traffic studies of shipments originated at representative origin points in North Carolina during the period from September 8, 1971, through September 14, 1971, which reflects that the North Carolina intrastate shipments of cut flowers and florists' materials and supplies represent less than one (1) percent of the express revenue from all express shipments originated in the State of North Carolina; that the proposed tariff revisions are not intended to increase rates and charges to any higher levels than those currently applicable to other shipments by bus of general commodities moving in North Carolina intrastate traffic, and that in an agreement with the American Society of Florists the higher exceptions rates on cut flowers and florists' materials and supplies have been eliminated in all states with the exception of California, North Carolina and Oregon.

Mr. Malcolm Myers, Director of Traffic, Queen City Coach Company, Carolina Scenic Stages and Smoky Mountain Stages, offered testimony and exhibits tending to show that for the week's study, September 8-14, 1971, that his companies handled 4,276 shipments at five of their major shipping points in North Carolina, said points being Asheville, Charlotte, Fayetteville, Wilmington and Raleigh, and of said shipments 23 were North Carolina intrastate shipments of cut flowers and florists' materials and 11 were interstate shipments of flowers; that 34-hundreths of one (1) percent of his companies' express revenue was for intrastate shipments of flowers, and 32-hundreths of one (1) percent was for interstate shipments of flowers; that his companies would realize a total amount of $2,811.89 annually if the proposed rates were allowed to become effective, and that some of the shipments would actually result in decreases. The witness further testified that the perishable nature of flowers requires that his companies give them special attention; that the rates for transporting shipments of flowers prior to May 1, 1971, were higher than for general express shipments but since that date have in most instances been lower; that his companies are now proposing to assess the same rates and charges for shipments of flowers as for general express shipments; that general package express rates were permitted to be increased effective May 1, 1971, an average of 82 percent, and that the proposed average increase for shipments of flowers will be 62.6 percent.

Mr. Aaron Cruise, Traffic Manager, Carolina Coach Company, offered testimony and exhibits tendings to show flowers are

of a perishable nature and that his company endeavors to move shipments of flowers on the next bus, even to the extent of delaying other non-perishable shipments; that he knows of no reason why shipments of flowers or florists' materials should move at rates less than other general bus express shipments; that if the proposed rates are approved, shipments of flowers and florists' materials will move at the same rates as are applicable to the general express shipments, and that generally the only difference between handling flowers and florists' materials and general express shipments is that the shipments of flowers need to be expedited to prevent spoilage or shipment not arriving for a specific event for which ordered.

Mr. R. C. O'Brien, Traffic Manager, Seashore Transportation Company, offered testimony and exhibits tending to show that only 5.27 percent of his company's North Carolina intrastate express shipments were cut flowers and florists' materials producing only 3.10 percent of express revenues; that his company serves Raleigh and Wilmington, North Carolina, which are the two major distribution areas for flowers; that during the last five or six years there has been a decrease in the volume of shipments of flowers handled by his company; that due to the perishable nature of flowers and the urgency of flowers to arrive at destination at a particular time they require special attention; that shipments of flowers and florists' materials should not move at rates lower than shipments of general express; and that if the proposed rates are allowed to become effective the small amount of increased revenues will have very little effect on his company's operating ratio.

Mr. John E. Atkins, Vice President-Traffic, Greyhound Lines, Inc., offered testimony and exhibits tending to show that shipments of flowers and florists' materials represent 64-hundredths of one (1) percent of his company's total express revenues originated in North Carolina; that for the period September 8, 1971, through September 14, 1971, a re-rating of said shipments based on the proposed rates reflects that shipments of flowers are handled for much less than shipments of general package express; that this has been the case since May 1, 1971; that the former higher exceptions rates on shipments of flowers have actually been lower rates since May 1, 1971, when the level of rates on general express package shipments were allowed to be increased; that if the proposed rates are allowed to become effective, it would have very little effect on his company's operating ratio in the State of North Carolina, and that shipments of flowers and florists' materials should not move at rates lower than those of general express package shipments.

Protestant offered one witness, Mr. John Mundy, Chairman of the Board of the State Florists' Association, as well as operator of John Mundy Florist and Fashion Florist and Gifts, both located in Henderson, North Carolina. Mr. Mundy

offered testimony reflecting that he receives shipments of cut flowers and florists' materials almost daily; that his shipments of flowers are packaged in standard boxes adapted to shipments of flowers; that due to the perishable nature of flowers he must order frequently rather than in large quantities, because customers want fresh flowers, not dead flowers; that when the retail florists order from the wholesaler, the shipper packages the shipments and presents them to the bus companies for transporting and the florists hope they arrive in time for the occasion; that he receives about 50 percent of his flowers by the florists' wholesale route trucks; that the florists, wholesalers and retailers have designed sized boxes for handling cut flowers with view of cutting down on expenses; that up until May, 1971, rates for shipments of flowers were higher than those of other commodities; that the proposed rates, if allowed to become effective, will have an adverse effect upon him.

The Commission Staff presented one witness in the person of I. H. Hinton. Certain exhibits, which are of record, were presented by this witness as well as testimony pertaining thereto.

Protestant's Attorney, at the beginning of the hearing, requested that the Commission take notice of the Executive Orders relating to price and wage increases.

Respondent's Attorney offered by reference the Order of the Commission in Docket No. B-105, Sub 29.

The parties requested and were permitted to file briefs.

Upon consideration of the testimony and evidence adduced in this proceeding, the official record herein, and subject to the regulations issued by the Price Commission on November 13, 1971, §300.016, Federal Register, Vol. 36, No. 220, p. 21793, the Commission makes the following:

FINDINGS OF FACT

1. The Respondents operate intrastate bus express service and are subject to the jurisdiction of the North Carolina Utilities Commission.

2. That the present bus express rates applicable to North Carolina intrastate shipments of cut flowers and florists' materials which require some special or expedited handling are no longer higher rates but are less than those applicable to bus shipments of general express.

3. That application of the proposed rates will result in uniform bus express rates for North Carolina intrastate traffic, and will eliminate the "Premium Charges" for shipments of cut flowers which exceed the designated dimensions and all shipments of florists' materials such as straw, wreath frames, styrofoam and bale moss.

4. That shipments of cut flowers and florists' materials will be subject to the density factor rule and the determination of the rates and charges on the basis of the actual aggregate weight or the computed weight of the shipment, whichever is greater, as published in Section B, Rule 2(c)(2) of Southeastern Express Tariff No. A-604-C, N.C.U.C. No. 227, applicable to general express shipments.

5. Respondents propose to increase their rates on cut flowers and florists' materials by approximately 62.6 percent.

6. That the proposed increase in rates applicable to shipments of cut flowers and florists' materials and supplies and proposed change in rule and practices for handling said involved shipments appear to the Commission, after due consideration of all evidence of record, to be just, reasonable and otherwise lawful.

7. That Respondents' tariff schedule herein involved is not inconsistent with the guidelines of the Price Commission as hereinabove mentioned.

Based upon the record in this proceeding and the above enumerated Findings of Fact, the Commission concludes as follows:

CONCLUSIONS

1. G.S. 62-146(h) requires this Commission to give due consideration among other factors to the effect of rates upon movement of traffic by the carrier or carriers for which rates are prescribed and 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 service and to the need of revenues sufficient to enable such carriers under honest and efficient management to provide said service.

2. That shipments of flowers are of a perishable nature and are given some special or expedited handling by Respondents.

3. That the proposed rate level for shipments of flowers and florists' materials and supplies is reasonable, will result in uniformity of bus express rates, and will not result in any excessive return to the Respondent carriers, and will be subject to the notice requirements and other regulations of the Price Commission herein mentioned.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Order of Suspension and Investigation in this docket, dated July 7, 1971, as Supplemented and Modified on August 17, 1971, be, and the same are, hereby vacated and set aside for the purpose of allowing the suspended tariff schedule to become effective, subject to

compliance by Respondents with all regulations of the Price Commission of the United States for notification of the increase of bus express rates contained in said tariff.

2. That the publication authorized hereby may be made on one (1) day's notice to the Commission and to the public, but in all other respects will comply with the Rules and Regulations of the Commission governing the construction, filing and posting of transportation tariff schedules.

3. That upon the publication hereby authorized having been made, the investigation in this matter be discontinued, and the same is considered as discontinued and the docket closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 11th day of February, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-151, SUB 12
DOCKET NO. T-305, SUB 4
DOCKET NO. T-404, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Eagle Transport Corporation, 315 West Ridge Street, Rocky Mount, North Carolina (T-151, Sub 12): and Application of North State Motor Lines, Inc., U. S. Highway 301, Rocky Mount, North Carolina (T-305, Sub 4): and Application of Barnes Truck Line, Inc., 506 Mayo Street, Wilson, North Carolina (T-404, Sub 3): All for Irregular Route Common Carrier Authority for the Transportation of Group 21, Except Commodities in Bulk in Tank Vehicles	ORDER GRANTING AMENDED APPLICATIONS

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, on September 29, 1972, at 2:30 P.M.

BEFORE: Chairman Marvin R. Wooten (Presiding) and Commissioners John W. McDevitt and Miles H. Rhyne.

APPEARANCES:

For the Applicants:

J. Ruffin Bailey
Bailey, Dixon, Wooten & McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602
For: Eagle Transport Corporation
North State Motor Lines, Inc.
Barnes Truck Line, Inc.

For the Protestant:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina
For: Burton Lines, Inc.

WOOTEN, CHAIRMAN: By application filed with the Commission on June 2, 1972, Eagle Transport Corporation, 315

West Ridge Street, Rocky Mount, North Carolina, and by application filed with the Commission on June 2, 1972, North State Motor Lines, Inc., U. S. Highway 301, Rocky Mount, North Carolina, and by application filed with the Commission on June 28, 1972, Barnes Truck Line, Inc., 506 Mayo Street, Wilson, North Carolina, each of the said motor carriers, seek common carrier authority for the transportation of Group 21, 1. Boards made from wood, using wood chips, wood shavings or wood fibre, alone or in combination; with or without added binder; with surface finished or unfinished or finished with decorative or protective materials and with or without accessories and supplies used in the installation and/or application thereof, in a territory between Nash County and points and places within the State of North Carolina; and 2. Materials, equipment and supplies used in the manufacture and distribution of the commodities described in Paragraph 1. above, in a territory between points and places within the State of North Carolina, and Nash County.

Motions to Amend were filed by each of the Applicants herein on September 6, 1972, seeking authority to amend the second paragraph in the commodity description to include the following words, "except commodities in bulk, in tank vehicles". Motions to Amend said applications were approved by Orders of the Commission dated September 13, 1972.

Notice of the applications, containing a description of the authority applied for, and setting the matter for hearing at the time and place in the caption, was given in the Commission's Calendar of Hearings issued on June 15, 1972, covering the applications in Docket No. T-151, Sub 12 and in Docket No. T-305, Sub 4, and notice of the application, containing a description of the authority applied for and setting the matter for hearing at the time and place in the caption, was given in the Commission's Calendar of Hearings issued June 30, 1972, covering the application in Docket No. T-404, Sub 3.

In apt time, protests were filed to each of the applications herein by Burton Lines, Inc., 815 Ellis Road, Durham, North Carolina, which said protests and interventions were allowed.

Upon the call of these matters for hearing, the Commission, upon its own Motion and without objection from the parties, consolidated each of the said dockets for hearing, decision and Order. The Protestant, Burton Lines, Inc., was present and represented by Attorney Vaughan S. Winborne, who moved leave of the Commission to withdraw the interventions and protests of the said Burton Lines, Inc., in each of the dockets herein, with the request that the said Burton Lines, Inc., be permitted to remain a party of record in order to receive a copy of all communications pertaining to the proceedings, which said Motion was allowed by the Commission. Attorney for the Protestant requested leave to withdraw from the hearing, which was granted.

Whereupon the said Attorney departed and took no further part in the proceedings herein.

Upon the further call of these matters for hearing, no one was present to protest the applications herein.

The Applicants requested that the Commission take judicial notice of the certificates, lists of equipment, tariffs and financial statements of each of the Applicants on file with the Commission, which said request was granted. The Applicants, thereupon tendered Donald Bryan, of North State Motor Lines, Inc., A. Donald Stallings, of Eagle Transport Corporation, and C. T. Harris, of Barnes Truck Line, Inc., for examination by the Commission with reference to the respective Applicants' fitness, willingness and ability, financially and otherwise, to properly perform the services for which authority is herein sought. No member of the Commission hearing panel had any questions to ask of either of the tendered carrier witnesses, and having taken judicial notice of the pertinent Commission records with reference to the said carriers' general fitness and ability to perform the services for which authority is herein sought, the Commission concluded by way of judicial notice that the Applicants, and each of them, had established the capability, fitness, etc., to perform the services for which authority is here sought and proceeded with the Applicants' evidence for the establishment of public convenience and necessity in connection with said applications.

The Applicants presented as a witness to establish public convenience and necessity Mr. Frank E. Lawless, Central Traffic Manager of Masonite Corporation, 29 North Wacker Drive, Chicago, Illinois 60606. Mr. Lawless testified in support of the applications of each of the Applicants herein and advised that his company had also testified in support of similar applications for these Applicants before the Interstate Commerce Commission seeking interstate authority to haul the same items for which authority is here sought. This witness pointed out the particular demand that the approval of these applications was needed by his employer to provide service to and from the Masonite Corporation plant located in Nash County near the Town of Spring Hope, intrastate within the State of North Carolina. The evidence of this witness pointed out that the movement of the commodities which they manufacture would move throughout the State of North Carolina. This witness further testified in support of the applications herein regarding his company's urgent need for the movement of the commodities and in the territory for which authority is herein sought.

Upon consideration of the record in this case, the testimony of the witnesses, and the Commission's official files, the Commission makes the following

FINDINGS OF FACT

1. That the Applicants, and each of them, are experienced common carriers in intrastate commerce in North Carolina, holding Common Carrier Certificates issued by this Commission as follows:

Eagle Transport Corporation	C-296
North State Motor Lines, Inc.	C-47
Barnes Truck Line, Inc.	C-29

2. That the Applicants, and each of them, have or can acquire sufficient terminal and transportation equipment to render the service which would be required under the authority herein sought, and that each of the Applicants have total assets as follows:

Eagle Transport Corporation	$ 370,315.70
North State Motor Lines, Inc.	$ 447,644.65
Barnes Truck Line, Inc.	$ 2,144,506.05

3. That there is a need for the transportation of Group 21.

1. Boards made from wood, using wood chips, wood shavings or wood fibre, alone or in combination; with or without added binder; with surface finished or unfinished or finished with decorative or protective materials and with or without accessories and supplies used in the installation and/or application thereof, between Nash County and points and places within the State of North Carolina; and

2. Materials, equipment and supplies used in the manufacture and distribution of the commodities described above in Paragraph 1, except commodities in bulk in tank vehicles, between points and places within the State of North Carolina, and Nash County, which said needs are not now being presently met by other common or contract carriers. The public convenience and necessity requires the services applied for in addition to existing authorized transportation services.

4. That the Applicants, and each of them, are fit, willing, and able, financially and otherwise, to properly perform the proposed services on a continuing basis.

Based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

That the Applicants, and each of them, are experienced and well qualified to provide the transportation services

applied for in the consolidated dockets herein; that there is a need for such services which is not presently being met, and that it is, therefore, in the public interest to grant the applications herein, and each of them, as amended; and that the public convenience and necessity will be served by the granting of the authorities requested in the dockets herein, and in each of them.

IT IS, THEREFORE, ORDERED:

1. That the Certificates of Eagle Transport Corporation, North State Motor Lines, Inc., and Barnes Truck Line, Inc., be, and the same are, hereby amended to include the authority more particularly described in Exhibit B attached hereto and made a part hereof.

2. That the Applicants, and each of them, shall comply with the rules and regulations of the Commission and begin operations under the authorities granted herein within a period of thirty (30) days from the date this Order becomes final. That the Applicants, and each of them, shall appropriately and promptly file with the Commission tariff schedules of rates and charges pursuant to the authorities herein granted.

ISSUED BY ORDER OF THE COMMISSION.

This the 6th day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-151, SUB 12	Eagle Transport Corporation	C-296
DOCKET NO. T-305 SUB 4	North State Motor Lines, Inc.	C-47
DOCKET NO. T-404, SUB 3	Barnes Truck Line, Inc.	C-29

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of Group 21

1. Boards made from wood, using wood chips, wood shavings or wood fiber, alone or in combinations; with or without added binder; with surface finished or unfinished or finished with decorative or protective materials and with or without accessories and supplies used in the installation and/or application thereof, between Nash County and points and places within the State of North Carolina; and

2. Materials, equipment and supplies used in the manufacture and distribution of the commodities described in Paragraph 1 above, except commodities in bulk, in tank vehicles, between points and places within the State of North Carolina and Nash County.

DOCKET NO. T-645, SUB 15

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of Fredrickson Motor Express) Corporation, 3400 North Graham Street, P. O.) ORDER Box 21098, Charlotte, North Carolina, seeking) APPROVING Certain Common Carrier Certification) APPLICATION

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on February 23, 1972, at 10:00 A.M.

BEFORE: Commissioners John W. McDevitt, Marvin R. Wooten (Presiding), and Miles H. Rhyne

APPEARANCES:

For the Applicant:

Ralph McDonald
Bailey, Dixon, Wooten & McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602

No Protestants.

WOOTEN, COMMISSIONER: This matter arises upon the application of Fredrickson Motor Express Corporation (hereinafter Applicant), P. O. Box 21098, 3400 North Graham Street, Charlotte, North Carolina, filed on January 7, 1972, seeking a common carrier certificate to haul Group 1, General Commodities, as specifically set out in Exhibit B attached to the application. On the same day the Applicant filed its application with this Commission it also filed a copy of its Interstate Commerce Commission application seeking identical interstate authority.

On January 13, 1972, notice was given in the Commission's Calendar of Hearings, setting the date, time and place of the hearing. No protests or requests for intervention were filed with the Commission and no one appeared at the hearing to protest or intervene in this cause.

The Applicant offered the testimony of two witnesses and three exhibits which were identified and admitted.

Loy J. Foster, Applicant's Traffic Manager, testified that the Applicant held Certificate Number C-1 from this Commission; that it had on file with the Commission evidence of insurance, annual financial reports and statements, and its equipment list; that the map identified as Exhibit 1 is properly labeled; that Exhibit 1 shows Applicant's present common carrier authority, over which routes the Applicant also holds identical interstate authority; that Exhibit 1 also shows the proposed routes over which the Applicant is here seeking additional common carrier authority, which includes four routes, over two of which Applicant seeks closed-door authority and on two of which it seeks authority to serve all intermediate points; that he made two (2) cost studies covering two weeks each regarding movement of freight by his company which were identified and admitted as Exhibits 2 and 3; that Exhibit 2 supports Applicant's request for authority over Route No. 1 as applied for; that Exhibit 3 supports Applicant's request for authority over Route No. 2; that Applicant has purchased property for the construction of a new terminal in Cabarrus County, North Carolina, to replace its present terminal in Charlotte, North Carolina, which is located between U. S. Highway No. 29 and Interstate Highway No. 85 on County Road No. 1305, and its request for Route No. 3 includes County Road No. 1305 between U. S. 29 and I-85 in order that it would be able to operate from and to the new terminal location; and that Applicant's request to serve Route No. 4 will be supported by another witness, and that request therefor was made in order to serve the existing needs of the general public generated by McNeill Spinning and Bulk Yarns in High Shoals, North Carolina, for shipments to and from said plants, and from said plants to their many customers located throughout North Carolina on certificated routes of the Applicant.

Mr. Edward L. Pell testified for the Applicant in support of its request for authority of Route No. 4 set out in the application. This witness' testimony indicated that he is Vice President and Treasurer of McNeill Spinning and Bulk Yarns; that his company had recently purchased a large operation at High Shoals, North Carolina, which is being operated in connection with their other operations; that only Fredrickson can adequately serve his company's needs; that Applicant must have authority sought over Route No. 4 in order to afford service to his company and his many customers in North Carolina; that no adequate service is presently available to his company; that his company supports the application in this respect; that his company operates a large spinning and bulk yarns business and generates the movement of large quantities of commodity shipments into and out of his said plants; and that Fredrickson has rendered very satisfactory service for his company in areas where it is authorized to serve.

Upon the evidence adduced and after consideration of the entire record as a whole, the Commission makes the following

FINDINGS OF FACT

1. That the Applicant, Fredrickson Motor Express Corporation, is a corporation organized and existing under and by virtue of the laws of the State of North Carolina, and is a duly authorized regular route common carrier of general commodities under its Certificate No. C-1 issued by this Commission, and is subject to regulation by and under the jurisdiction of this Commission and is presently properly before this Commission with reference to matters over which this Commission has appropriate jurisdiction.

2. That the Applicant owns the necessary equipment for the movement of commodities in the territory described and applied for and that its employees are experienced in the movement of said commodities.

3. That the Applicant is fit, willing and financially able and otherwise qualified and able to perform adequate service as proposed in this application, and to continue such service as long as the need therefor exists.

4. That the authority requested will not result in any unfair or unreasonable competitive advantage for the Applicant; and that it will, however, result in an improvement in the operating authority of the Applicant which is needed and necessary in order to improve the Applicant's continued service to the public in highway transportation, via the use of Routes 1 and 2 applied for, serving no intermediate points, with closed doors, for operating convenience only.

5. That public convenience and necessity requires the proposed service over Routes 3 and 4 applied for in addition to existing authorized transportation service.

6. That public convenience and necessity requires and supports the approval of the application herein as filed.

CONCLUSIONS

1. 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 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 furnish adequate service on a continuing basis.

2. 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.

3. 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 statewide 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."

4. That the Applicant has sustained and carried the burden of proof placed upon it by the provisions of G.S. 62-262(e).

5. 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.

6. We finally conclude that public convenience and necessity requires and sustains the approval of the application herein as filed and the granting of a certificate in accordance therewith.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the application in this docket be, and it is, hereby approved and the Applicant, Fredrickson Motor Express Corporation, P. O. Box 21098, 3400 North Graham Street, Charlotte, North Carolina, be, and it is, hereby granted additional motor freight common carrier authority in accordance with Exhibit A hereto attached.

2. That this Order shall operate as all necessary evidence of the authority herein granted pending the amendment of the Applicant's certificate by the Clerk of the Commission pursuant thereto.

3. That operations shall begin under this authority when the Applicant has filed with the North Carolina Utilities Commission tariff schedules and has otherwise complied with the rules and regulations of this Commission, all of which shall be done within thirty (30) days from the date of this Order.

ISSUED BY ORDER OF THE COMMISSION.

This the 29th day of February, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine H. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-645 SUB 15 Fredrickson Motor Express Corporation
3400 North Graham Street
P. O. Box 21098
Charlotte, North Carolina

Regular Route Common Carrier Authority

EXHIBIT A The transportation of Group 1, General Commodities, except those requiring special equipment, in the territory described as follows:

Route 1 Between Marion, N. C., and Rutherfordton, N. C.: From Marion, N. C., over U. S. Hwy. 221 to Rutherfordton, N. C., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only.

Route 2 Between Mt. Airy, N. C., and Winston-Salem, N. C.: From Mt. Airy, N. C., over U. S. Hwy. 52 to Winston-Salem, N. C., and return over the same route, serving no intermediate points, as an alternate route for operating convenience only.

Route 3 Between U. S. Hwy. 29 and Interstate Hwy. 85 over County Road 1305: From intersection of County Road 1305 and U. S. Hwy. 29 near Concord, N. C., over County Road 1305 to the intersection of County Road 1305 and County Road 1394 at Interstate Hwy. 85 and return over the same route serving all intermediate points.

Route 4 Between Lincolnton, N. C., and Gastonia, N. C.: From Lincolnton, N. C., over U. S. Hwy. 321 to Gastonia, N. C., and return over the same route serving all intermediate points.

DOCKET NO. T-681, SUB 34

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Helms Motor Express, Inc., P. O. Drawer 700, Albemarle, North Carolina - Application for Additional Authority.) RECOMMENDED ORDER

HEARD IN: The Commission's Hearing Room, Raleigh, North Carolina, on February 29, 1972, at 2:00 P.M.

BEFORE: E. A. Hughes, Jr., Examiner

APPEARANCES:

For the Applicant:

J. Ruffin Bailey
Bailey, Dixon, Wooten and McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina

No Protestants.

HUGHES, EXAMINER: By application filed with the Commission on December 31, 1972, as subsequently amended, Helms Motor Express, Inc., (Applicant) P. O. Drawer 700, Albemarle, North Carolina, seeks additional authority to engage in the transportation of Group 1, General Commodities, serving Richmont Fabrics, Inc., plant site six (6) miles south of Mount Gilead, North Carolina, on N. C. Highway 109 as an off-route point out of Mount Gilead, North Carolina.

Applicant further seeks by this application authority to engage in the transportation of general commodities, except those requiring special equipment in interstate or foreign commerce, as hereinabove described, under the provisions of Section 206(a) (6) of the Interstate Commerce Act, as amended October 15, 1962 [49 USCA 306(a)(6)].

Applicant operates as a motor common carrier of general commodities, with exceptions, over regular routes solely within the State of North Carolina, and is not controlled by, controlling, or under common control with any carrier engaged in operations outside North Carolina.

No protests were filed and no one appeared at the hearing in opposition to the granting of the authority sought.

The record of evidence tends to show that notice of the application for intrastate authority was published in the Calendar of Hearings issued by the North Carolina Utilities Commission under date of January 13, 1972; that appropriate notice was forwarded to the Interstate Commerce Commission for publication and was published in the Federal Register under date of January 26, 1972, of the desire of Applicant to engage in transportation in interstate and foreign commerce within the limits of the intrastate authority sought and that reasonable opportunity was given to interested persons to protest and to be heard and, as hereinabove shown, no one filed protest nor was anyone present at the hearing in opposition to the granting of the authority applied for.

Pending hearing and final determination of the application, Applicant sought temporary authority to serve the textile manufacturing plant of Richmont Fabrics, Inc., as an off-route point at Mount Gilead, North Carolina. For good cause shown, the application for temporary authority was granted for the period during the pendency before the Commission of the permanent authority application herein.

The application for permanent authority is supported by Richmont Fabrics, Inc., whose President, Mr. Max Joyce, testified, by way of affidavit, that his company supports the application of Helms Motor Express for authority to serve as a common carrier by motor vehicle of general commodities as an off-route point, the new plant site of Richmont Fabrics, Inc., which is located six (6) miles south of the city limits of Mount Gilead on N. C. Highway 109; that the plant has been in operation since April 1971, and there is no regular route general commodity common carrier by motor vehicles authorized to serve the location; that prior to December 1971, Helms Motor Express provided service both inbound and outbound; however, in reviewing their authority and in checking the exact location of the plant, it was discovered that their certificate did not cover this operation; that their mistake was due to the fact that all of the shipments were billed to the company at Mount Gilead and the pick-up and delivery driver delivered them out of the Biscoe Terminal some twenty-five (25) miles from said plant; that to his knowledge, there is no other service either intrastate or interstate and that the Helms driver calls for pickups when he comes into Mount Gilead and just before he leaves; that his company ships both to points in interstate and in intrastate commerce and receives shipments which must be delivered by Helms in both intrastate and interstate commerce; that these intrastate and interstate points are widely scattered and that Helms' service is absolutely necessary to the continued operation of the plant; that the plant produces an unfinished double knit fabric which must be transported from the plant to other plants for finishing; that Helms Motor Express has since December 30, 1971, had authority to serve the plant in intrastate commerce and since February 1, 1972, has had emergency temporary authority in interstate commerce; that

without this service, his company would be forced to establish a shipping point six (6) miles away in Mount Gilead and transport its shipments by vehicles which it would have to acquire into and out of this point; that as President of Richmont Fabrics, Inc., he has determined that this would not be feasible; that he has made an effort to get other service but none is available; that the service proposed by this Applicant is absolutely necessary to its continued operation and is a matter of extreme urgency to Richmont Fabrics, Inc., for intrastate and interstate inbound and outbound shipments.

The Hearing Examiner has duly considered the application, as amended, for authority to engage in the transportation of general commodities, heretofore described, in interstate and foreign commerce as well as the application for intrastate authority and makes the following

FINDINGS OF FACT

(1) That public convenience and necessity does now and will in the future require the proposed service in addition to existing authorized transportation service,

(2) That public convenience and necessity requires that the carrier authorized herein to engage in intrastate operations also be authorized to engage in operations in interstate and foreign commerce within limits which do not exceed the scope of the intrastate operations authorized to be conducted,

(3) That the Applicant is fit, willing and able to properly perform the proposed service, and

(4) That the Applicant is solvent and financially able to furnish adequate service on a continuing basis.

CONCLUSIONS

The application in this cause was filed under the provisions of North Carolina G.S. 62-262 and Section 206(a) (6) of the Interstate Commerce Act, as amended [49 USCA 306 (a) (6)]. The evidence of record is conclusive that the present and future public convenience and necessity requires the operation proposed by Applicant as a common carrier by motor vehicle transporting general commodities. The Hearing Examiner concludes that the authority sought should be granted.

IT IS, THEREFORE, ORDERED:

(1) That Applicant's intrastate Common Carrier Certificate No. C-3 be amended to include the authority set forth in Exhibit A hereto attached and made a part hereof.

(2) That the Applicant cause to be amended its tariffs on file with this Commission so as to indicate to the shipping

and receiving public its authorization to render service within the territory herein granted by this Commission.

(3) That the temporary authority heretofore granted to Applicant in this docket be cancelled on the date that this order becomes effective and final.

(4) That Applicant be, and it is, hereby authorized to file with the Interstate Commerce Commission a copy of this order as evidence for a certificate of registration in accordance with the provisions of Section 206 (a) (6) of the Interstate Commerce Act, as amended [49 USCA 306 (a) (6)] relating to registration of state motor carrier certificates.

ISSUED BY ORDER OF THE COMMISSION.

This the 8th day of March, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. T-681 SUB 34	Helms Motor Express, Inc. Regular Route Common Carrier Albemarle, North Carolina
EXHIBIT A	Transportation of Group 1, General Commodities, serving Richmont Fabrics, Inc., plant site six (6) miles south of Mount Gilead, N. C., on N. C. Highway 109 as an off-route point out of Mount Gilead, N. C.

DOCKET NO. T-1602

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for Contract Carrier Permit by Ma-Let Postal Service, Incorporated, Box 160, Route 3, Clemmons, North Carolina.	ORDER GRANTING APPLICATION IN PART

HEARD IN: The Library of the Commission, Ruffin Building, Raleigh, North Carolina, on Tuesday, March 28, 1972, at 2:00 P.M.

BEFORE: Commissioners John W. McDevitt, Miles H. Rhyne, and Marvin R. Wooten (Presiding).

APPEARANCES:

For the Applicant:

John J. Schramm, Jr.
Attorney at Law
306 North Carolina National Bank Building
Winston-Salem, North Carolina 27101

For the Protestant:

Arch T. Allen, III
Allen, Steed & Pullen
Attorneys at Law
P. O. Box 2058, Raleigh, North Carolina 27602
For: American Courier Corporation

WOOTEN, COMMISSIONER: By application filed with the Commission on February 3, 1972, Ma-Let Postal Service, Incorporated, Box 160, Route 3, Clemmons, North Carolina, seeks a Contract Carrier Permit and authority to transport Group 1, General Commodities; Group 15, Retail Store Delivery Service; Group 20, Motion Picture Film and Special Service; and Group 21, Third Class Bulk Mail, to transport the same over irregular routes within the geographical limits of Forsyth County, Guilford County and Davidson County, North Carolina.

Notice of the application, setting forth the authority applied for and the time and place of the hearing, was given in the Commission's Calendar of Hearings issued February 15, 1972.

By letter dated March 6, 1972, the Applicant requested permission to amend its application by withdrawing that portion of the same seeking authority to transport Group 20, Motion Picture Film and Special Service. Upon the call of this case for hearing, said letter was treated by the Commission as a motion in the cause and, without objection, was allowed, thereby deleting from the application the request for a permit and authority to transport Group 20, Motion Picture Film and Special Service.

Protest and Motion for Intervention was filed with the Commission on March 17, 1972, by American Courier Corporation, 2 Nevada Drive, Lake Success, New York. As the second order of business upon the call of this case, the Motion for Intervention was allowed and the said American Courier Corporation was duly made a protestant party.

The Applicant offered the testimony of its President, Douglas F. Yontz, and Roy Rights, who is the owner and operator of Clemmons Variety Store and J & R Printers, in Clemmons, North Carolina.

During the course of the testimony of Mr. Yontz the Applicant presented 16 contracts, which were collectively

marked as Applicant's Exhibit A, received in evidence and are a matter of record. Mr. Yontz also testified in detail regarding his plans for operations in the event the application was approved and with reference to his fitness and ability to operate as a contract carrier.

Witness Rights testified in detail regarding his need for the service of the Applicant to pick up and deliver to and from his places of business at Clemmons Five and Ten, Inc., and J & R Printers, to and from points and places within Forsyth County.

From the evidence presented, the Commission is of the opinion and makes the following

FINDINGS OF FACT

1. That the proposed operations do not conform with the definition of a contract carrier, except with reference to the contract with Clemmons Five and Ten, Inc., and J & R Printers, and in that connection will not unreasonably impair the efficient service of common carriers operating under certificates or common carriers by rail.

2. That Clemmons Five and Ten, Inc., and J & R Printers are in need of the contract carrier service applied for with reference to those particular business operations for the pickup and delivery of any and all commodities for delivery to or from said business operations to or from any and all points and places within Forsyth County, for which need no other service presently exists; that the proposed contract service with J & R Printers and Clemmons Five and Ten, Inc., will not unreasonably impair the use of the highways by the public.

3. That the Applicant owns equipment and has the experience necessary for the operations as herein approved.

4. That the Applicant is fit, willing and able to properly perform the service as herein approved as a contract carrier and such operations will be consistent with the public interest and the State's transportation policy as required by law.

5. That contract carrier service under bilateral written contracts with J & R Printers and the Clemmons Five and Ten, Inc., for the commodities and in the territory described in Exhibit A, attached hereto and made a part hereof, will be consistent with the public interest.

6. That operations approved herein will tend to effectuate the declared policy of the applicable law.

CONCLUSIONS

The Commission concludes that the Applicant has satisfied the burden of proof required for the granting of authority

herein approved as described in Exhibit A, hereto attached and made a part hereof, and that the application as set forth in said exhibit attached hereto should be approved and the authority granted.

The Commission further concludes that the Applicant has failed to carry the burden of proof to sustain the granting of contract carrier authority for the movement of general commodities in Forsyth, Guilford and Davidson Counties, having failed to offer any evidence in support thereof for any of said counties; that the Applicant has also failed to offer any evidence and, therefore, failed to carry the burden of proof placed upon it by law to support the granting of contract carrier authority for the movement of retail store delivery service within the three counties applied for; and that the transportation and movement of Third Class Bulk Mail is a matter which is not within the jurisdiction of this Commission but is preemptively subject to Federal jurisdiction and regulation, if any.

The Commission further concludes that the Applicant has shown a need for contract carrier service within Forsyth County for the movement of all commodities over irregular routes received and shipped by Clemmons Five and Ten, Inc., and J & R Printers.

The Commission finally concludes, in accordance with its rules, that in the event the Applicant should desire to serve additional customers under its contract carrier authority herein granted, contracts with reference thereto, not to exceed seven (7) in number, should be submitted by the Applicant to the Commission for its further consideration.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Ma-Let Postal Service, Incorporated, Box 160, Route 3, Clemmons, 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 said operations herein approved be commenced only when the Applicant has complied with all of the rules and regulations of the North Carolina Utilities Commission, all of which shall be done within thirty (30) days from the date of this Order.

3. That except as herein specifically approved, the application in all other respects be, and the same is, hereby disapproved, disallowed and denied.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of April, 1972.

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

DOCKET NO. T-1602 — Ma-Let Postal Service, Incorporated
Box 160, Route 3
Clemmons, North Carolina

Contract Carrier Authority

EXHIBIT A — Transportation of all commodities shipped to and from Clemmons Five and Ten, Inc., and J & R Printers under bilateral contracts, to and from all points and places lying within Forsyth County, North Carolina.

DOCKET NO. T-1490

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Jerry H. Stegal, d/b/a Jerry Stegal Trucking, Route 3, Marshville, North Carolina - Failure to File 1971 Annual Report as Required by Law

and

Jerry H. Stegal, d/b/a Jerry Stegall Trucking, Route 3, Marshville, North Carolina - Termination of Liability Insurance Coverage.

RECOMMENDED ORDER REVOKING AUTHORITY

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on October 12, 1972, at 10:00 A.M., and on October 13, 1972, at 10:00 A.M.

BEFORE: Chairman Marvin R. Wooten on October 12, 1972, and Hearing Examiner William E. Anderson on October 13, 1972

APPEARANCES:

For the Respondent: None

For the Commission Staff:

Maurice W. Horne, Esq.
Assistant Commission Attorney
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

Edward B. Hipp, Esq.
Commission Attorney
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

BY: Chairman Marvin R. Wooten, Hearing Commissioner, and William E. Anderson, Hearing Examiner. On July 27, 1972, the Commission issued an Order to Jerry H. Stegall, d/b/a Jerry Stegall Trucking (Respondent), Route 3, Marshville, North Carolina, giving notice to said Respondent to appear before the Utilities Commission in its Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on October 12, 1972, and show cause, if any he had, why his operating authority as a contract carrier, Permit No. P-221, should not be revoked for failure to file with the Commission his Annual Report for the year ended December 31, 1971, as required by G.S. 62-36 and Rule R2-48. The Order was served on the Respondent by Certified Mail on August 14, 1972.

Pursuant to the provisions of said Order, the matter came on for hearing for the purpose set out therein, on October 12, 1972. The Respondent failed to appear.

On August 21, 1972, the Commission issued its Order Suspending Operating Authority for Failure to Maintain Insurance, and on September 6, 1972, the Commission issued its Order to Show Cause in the matter of Revocation of Operating Authority for Failure to Maintain Insurance, reciting that the Commission had received notice from Carolina Casualty Insurance Company that the Respondent's liability insurance coverage was cancelled effective September 1, 1972. The Show Cause Order was served on Jerry H. Stegall by Commission Inspector L. E. Yount on September 8, 1972.

Based upon the records of the Commission, of which judicial notice is taken, the Respondent's file, and the competent evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

(1) That pursuant to the provisions of a Commission Order in Docket No. T-1490 dated January 9, 1970, the Respondent is the holder of Contract Carrier Permit No. P-221, which authorizes and requires Respondent to transport, as a contract carrier, certain commodities from and to certain specified points and places within the State of North Carolina.

(2) That Annual Reports are required to be filed with the Commission no later than April 30 following the close of the calendar year. Respondent failed to do so.

(3) That the Respondent failed to reply to the three written notices dated March 20, 1972, April 11, 1972, and May 15, 1972, reciting the requirements for the filing of Annual Reports under Commission Rule R2-48.

(4) That the Respondent failed to reply to the Show Cause Order dated July 27, 1972, either by written communication or by appearance at the hearing.

(5) That the Respondent's liability insurance was cancelled effective September 1, 1972, and no evidence has been submitted tending to show that the coverage has been placed back into effect.

(6) That the Respondent failed to reply to the Show Cause Order dated September 6, 1972, either by written communication or by appearance at the hearing.

CONCLUSIONS

Under the aforesaid findings and the applicable law, the Commission concludes that Contract Carrier Permit No. P-221 heretofore issued to Respondent should be cancelled and revoked.

IT IS, THEREFORE, ORDERED:

(1) That Contract Carrier Permit No. P-221 heretofore issued to Jerry H. Stegall, d/b/a Jerry Stegall Trucking, Route 3, Marshville, North Carolina, be, and the same is, hereby cancelled and revoked.

(2) That a copy of this Order be transmitted to said Respondent and to the North Carolina Department of Motor Vehicles.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 153

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Motor Common Carriers - Suspension and)
Investigation of Proposed Increases in) ORDER
Rates on Certain Bulk Commodities.)

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on May 17 and May 23, 1972, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott and Commissioners John W. McDevitt, Hugh A. Wells, Miles H. Rhyne and Marvin R. Wooten, Presiding.

APPEARANCES:

For the Respondents:

J. Ruffin Bailey
Bailey, Dixon, Wooten and McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602
For: Carriers Participating in Bulk, Commidity Tariff No. 21-B, N.C.U.C. No. 83

For the Commission Staff:

Maurice W. Horne
Assistant Commission Attorney
North Carolina Utilities Commission
Ruffin Building
Raleigh, North Carolina

WOOTEN, COMMISSIONER: This matter arises upon the filing with this Commission by the North Carolina Motor Carriers Association, Inc., Agent, of tariff schedules, for and on behalf of its member carriers parties to its Bulk Commodity Tariff No. 21-B, N.C.U.C. No. 83, which said filings propose changes in certain rules and charges, cancellation of certain point to point rates, and increases in its rates for application to shipments of bulk commodities, with certain exceptions, transported in tank trucks, hoppers and specialized equipment, to become effective November 14, 1971, which said filings are designated as Supplement No. 45 to North Carolina Motor Carriers Association, Inc., Agent, Tariff No. 21-B, N.C.U.C. No. 83; those items containing changes resulting in increases as enumerated and described therein, only, and Supplement No. 46, to said Tariff, in full.

The Commission being of the opinion that the proposed increased rates and charges and practices in connection therewith was a matter affecting the public interest by Order of November 9, 1971, and an amended Order dated November 11, 1971, among other things, suspended to and including June 30, 1972, said tariff schedules, directed an investigation into and concerning the lawfulness of said tariff schedules, named those motor carriers participating or proposing to participate in the involved tariff schedules, Respondents, and set the matter for hearing on March 28, 1972.

On February 22, 1972, Petition was filed with the Commission by the Respondent motor carriers seeking relief from the Commission's Order dated November 9, 1971, as amended, for authority to permit the filing by said Respondents of Supplements Nos. 48 and 49 to Tariff 21-B, N.C.U.C. No. 83 which filings proposed additional changes in rules and charges, cancellation of certain point to point rates, and increases in rates and charges for application to shipments of bulk commodities not so treated by the tariff

filings suspended by the Commission's Order of November 9, as amended, with said proposed tariff filings scheduled to become effective April 7 and June 1, 1972, and designated as North Carolina Motor Carriers Association, Inc., Agent, Motor Freight Tariff No. 21-B, N.C.U.C. No. 83, Supplements Nos. 48 and 49 thereto, in full. By Order dated March 1, 1972, the Commission issued its Supplemental Order of Suspension and Investigation and consolidated both filings for hearing at the time and place set out in the caption.

The only protestant appearing and testifying in this case was J. Rubel, Assistant Director of Distribution, Swift Edible Oil Company, a division of Swift & Company, who appeared and testified for and on behalf of his employer.

The Respondents presented their case through the following witnesses: L. E. Forrest, Richard E. Shaw, James B. Swing, James L. Prince, Jr., James T. Atwater, Joe C. Day and John W. Jackson. The Commission Staff presented its case through two witnesses, D. D. Coordes and James C. Turner.

After receiving the direct evidence by the Respondents and the evidence by the Protestant and Commission Staff, the matter was recessed and hearing was resumed on May 23, at which time Staff Witness James C. Turner and the Respondents' witnesses were cross-examined and the Respondents' rebuttal Witness, John W. Jackson, testified.

The evidence by the Respondents was presented through exhibits and testimony which tended to show that cost of supplies and materials and equipment have increased substantially since the last increase in the rates here involved, as well as the cost of wages which have likewise substantially increased, with further sharp increases in prospect. There was testimony regarding the increase in cost of fuel, license fees, Federal Highway Use Taxes, insurance rates, and higher interest costs.

The evidence by the Respondents related volume and mile to operating expenses and these to revenues in an attempt to demonstrate that intrastate operations do not produce sufficient revenue to provide a fair operating ratio for such operations.

Commission Staff Accountant, James C. Turner, testified for the Commission Staff regarding his study and analysis of the operating and financial condition of the motor carriers here involved. This witness further testified that the operating expenses for the eight (8) study carriers show an over-all dollar increase per unit cost (1,000 tons of freight) of $1,287.25 or 22.6% from 1968 through 1971, while operating revenue increased per unit by $1,242.64 or 21.0%, indicating that operating expenses per unit have increased at a higher percentage rate than have revenues per unit for the years 1968 through 1971. Mr. Turner testified further that the same comparison for the years 1970 to 1971 revealed

that the operating expenses increased at a lesser rate than the revenue.

The Commission Staff also presented the testimony of D. D. Coordes, who presented certain exhibits which are of record and explained the same in detail.

The filing of briefs was waived by all parties of record.

Upon consideration of the evidence adduced in this proceeding and the official record herein, the Commission makes the following

FINDINGS OF FACT

1. That the common carriers participating in the tariff schedules under suspension in this proceeding are subject to the regulation by this Commission and are in need of additional revenues and should be allowed to make an increase in their rates and charges.

2. That inflation in many phases of intrastate common carrier operations has adversely affected the operating ratios of the Respondents.

3. The record herein indicates that Bulk Haulers, Inc., experienced a systems operating ratio of 87.4% for the year 1971 and Central Transport, Inc., experienced a systems operating ratio of 83.7% for the year 1971. Central's evidence reflects an intrastate operating ratio of 92.2% based upon ratios derived from revenues, miles and shipments. Bulk Haulers, Inc., offered no evidence of intrastate operating ratio. The record further indicates that these two carriers transport virtually all of the Dimethyl Terephthalate (DMT) within North Carolina. The proposed increases herein would amount to approximately $36,000 for Bulk Haulers, Inc., and approximately $3,000 for Central Transport, Inc. Inasmuch as these two carriers have experienced favorable operating ratios for the year 1971, and, further, that such carriers haul virtually all DMT which is transported within North Carolina, the Commission finds that the proposed increases for DMT are not just and reasonable and should not be allowed.

4. That the increase in rates and charges and the changes in certain rules herein proposed, as amended by Supplements Nos. 48 and 49, are just and reasonable.

5. That the operating ratios presented in this matter by the Respondents are based on a separation of intrastate and interstate expenses derived from a breakdown of interstate and intrastate miles, which said method of separations tends to and does overstate intrastate expenses and, therefore, operating ratios, and results generally in lower system-wide operating ratios when compared to the intrastate ratios; that the operating ratios for intrastate operations are higher than will allow a sufficient profit for continued

service; and that the separations evidence in this case did not establish such separations with reasonable mathematical exactitude; however, when viewed in the light of the fact that the changes herein requested were negotiated by the carriers with their customers to the extent that only one nominal protest was presented by only one customer, we find that the evidence when viewed as a whole does tend to approximate the rateable proportion of their movements in intrastate traffic, which, under the circumstances of this case, is of sufficient probative force to make the findings herein as required by statute.

6. That the Respondents' rates and charges now in effect on intrastate movements of certain bulk commodities transported in tank trucks, hoppers and specialized equipment are not sufficient to permit them to continue performing adequate and efficient transportation service to the public under economical and efficient management. The record in this case shows that the carriers transporting the preponderance of these certain bulk commodities intrastate have unfavorable operating ratios and that said carriers are generally representative of the bulk commodities haulers in this State.

Based upon the record in this case and the above enumerated Findings of Fact, the Commission concludes as follows

CONCLUSIONS

1. G.S. 62-146(h) requires this Commission to give due consideration, among other factors, to the effect of rates upon movement of traffic by the carrier or carriers for which rates are prescribed, to the need in the public interest of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service and to the need of revenues sufficient to enable such carriers under honest, economical, and efficient management to provide such service.

2. The cost figures of Respondent motor carriers are based on the cost finding formulae developed by the Respondents which have not been approved by this Commission for determining intrastate costs, and the correctness of same is questionable. Nevertheless, based upon the foregoing Findings of Fact and the record in this proceeding as a whole, we conclude that the Respondents have shown need for the additional revenue the proposed increase as amended will produce, that the proposed increases are not excessive, and that the suspended tariff schedules should be allowed to become effective.

3. Inasmuch as Bulk Haulers, Inc., and Central Transport, Inc., have experienced favorable operating ratios for the year 1971, and further that such carriers haul virtually all DMT which is transported within North Carolina, the Commission concludes that the proposed

increases for DHT are not just and reasonable and should not be allowed.

4. G.S. 62-146(g) provides that in any proceeding to determine the justness and reasonableness of any rate of any common carrier by motor vehicle, such rates shall be fixed and approved, subject to the provisions of G.S. 62-146(h), on the basis of operating ratios of such carriers, being the ratio of their operating expenses to their operating revenues. (State v. State, 243 N.C. 12), (Utilities Commission v. Tobacco Association, 2 N.C. App. 657), and (Utilities Commission v. State, 243, N.C. 685). We conclude that the evidence in this record concerning operating ratios of the carriers does separate interstate and intrastate expenses; however, the method employed by the carriers (mileage breakdown and ratios) tends to and does overstate intrastate expenses and, therefore, reflects higher operating ratios and that such evidence is insufficient, standing alone, to approximate the reasonably rateable proportion of their movements in intrastate traffic; however, when considered in the light of facts heretofore found, we conclude that all of the evidence, in this case, is of sufficient probative force and effect to support the approval of the application herein.

5. We do not conclude that the formula and method used in making the separations in this case reflect to a certainty, accurate results, and we advise and enjoin the Respondents herein to continue their efforts for improvement in this area. However, we do conclude that the evidence relates volume and miles to operating expenses and these to the revenue to an extent sufficient, when considered in the light of the circumstance of this case, to demonstrate that intrastate operation does not produce sufficient revenue to provide a fair operating ratio for such operations.

6. We further conclude that the motor common carriers of North Carolina should undertake an active study program to develop and determine a more accurate and equitable method or methods of separations to improve the probative force and effect of their evidence concerning the derivation of intrastate operating ratios as required by statute; and we further conclude that a failure to develop improved, more accurate and equitable separations methods will, of necessity, result in negative findings in the future and we advise and enjoin the carriers to develop and present several improved such methods of separations in future cases upon which this Commission may make more enlightened findings and determinations.

7. We conclude that it is the duty of this Commission to protect the public by requiring service at just and reasonable rates and that duty also requires this Commission to fix rates which are just and reasonable to the utility so that the utility will have sufficient earnings to enable it to give reasonable service.

8. The Commission further concludes that the motor common carriers who are Respondents herein numbering approximately 22 have carried the burden of proof showing that the proposals herein are just and reasonable.

IT IS, THEREFORE, ORDERED:

1. That the Orders of Suspension in this docket dated November 9, 1971, November 11, 1971, and March 1, 1972, be, and the same are, hereby vacated and set aside for the purpose of allowing the tariff schedules, as amended, to become effective, except that the proposed increases for Dimethyl Terephthalate are specifically denied and disapproved and the carriers are herewith directed to publish and file appropriate supplement reflecting such denial.

2. That publication authorized hereby may be made on one (1) day's notice to the Commission and to the public, but in all other respects, shall comply with the rules and regulations of the Commission governing the construction, filing and posting of tariff schedules.

3. That upon publication hereby authorized having been made, the investigation in this matter be discontinued, and this proceeding be, and the same is, hereby discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of June, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 153

McDEVITT, DISSENTING. The majority order acknowledges that the mileage ratio method used by the motor carriers to derive their North Carolina operating ratios is based upon the relationship of interstate miles to intrastate miles and overstates intrastate expenses resulting in higher operating ratios than would be produced by other methods. At the same time, the majority puts the motor carriers on notice that use of the mileage ratio method alone will, of necessity, result in negative findings in the future and advises the motor carriers to present several improved methods of separations in future cases so that the Commission may make more enlightened findings and determinations. Yet the majority in this docket is authorizing increases based upon mileage ratios.

I dissent therefrom, believing that mileage ratios alone are insufficient to establish just and reasonable rates. This superficial approach to rate making fails to yield evidence to result in any determination by the Commission

that the motor carriers have sustained their statutory burden of proof.

John W. McDevitt

DOCKET NO. T-825, SUB 157

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Motor Common Carriers of Unmanufactured Tobacco, Materials and Accessories - Suspension and Investigation of Proposed Increase in Rates and Charges and Changes in Certain Rules, Scheduled to Become Effective May 1, 1972.	)	ORDER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on June 20, 1972, at 10:00 A.M.

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

APPEARANCES:

For the Respondents:

J. Ruffin Bailey
Bailey, Dixon, Wooten and McDonald
Attorneys at Law
P. O. Box 2246, Raleigh, North Carolina 27602
For: Tobacco Carriers Participating in N.C.M.C. Tariff No. 8-L, N.C.U.C. No. 97

For the Commission Staff:

Maurice W. Horne
Assistant Commission Attorney
North Carolina Utilities Commission
Ruffin Building
Raleigh, North Carolina

WOOTEN, COMMISSIONER: This matter arises upon the filing with this Commission on March 30, 1972, by the North Carolina Motor Carriers Association, Inc., Agent, of tariff schedules for and on behalf of its member carriers parties to its Tobacco Tariff No. 8-L, N.C.U.C. No. 97, which said filings propose changes in certain rules and charges, and increases in its rates for application to shipments of unmanufactured tobacco, materials, accessories and supplies, transported in North Carolina intrastate commerce, to become effective May 1, 1972, which said filings are designated as Supplements Nos. 3 and 4 to North Carolina Motor Carriers Association, Inc., Agent, Tariff No. 8-L, N.C.U.C. No. 97.

The Commission, being of the opinion that the proposed increased rates and charges, and practices in connection therewith was a matter affecting the public interest, by Order of April 19, 1972, among other things, suspended to and including January 25, 1973, said tariff schedules, directed an investigation into and concerning the lawfulness of said tariff schedules, named those motor carriers participating or proposing to participate in the involved tariff schedules, Respondents, and set the matter for hearing on June 20, 1972.

On April 14, 1972, Petition was filed with the Commission by the Respondent motor carriers seeking relief from the Commission's Order dated July 20, 1972, for authority to permit the filing by said Respondents of Supplements Nos. 3 and 4 to Tariff 8-L, N.C.U.C. No. 97 and the Commission by its action of suspending the said tariff filings, instituting an investigation and setting the matter for hearing, in legal effect, granted the Petition for relief as prayed, even though through inadvertence and error, the order with reference thereto, denied said relief.

The Respondents presented their case through the following witnesses: L. E. Forrest, Harvie A. Carter, George S. Warren, Jr., George E. Martin, Jr., and shipper witness Thomas Ryon. The Commission Staff presented its case through two witnesses, I. H. Hinton and James C. Turner.

The evidence by the Respondents was presented through exhibits and testimony which tended to show that cost of supplies and materials and equipment have increased substantially since the last increase in the rates here involved, as well as the cost of wages which have likewise substantially increased, with further sharp increases in prospect. There was testimony to the effect that there have been increases in costs in all phases of transportation operations.

The evidence by the Respondents related volume and mile to operating expenses, and these to revenues in an attempt to demonstrate that intrastate operations do not produce sufficient revenue to provide a fair operating ratio for such operations.

Commission Staff Accountant, James C. Turner, testified for the Commission Staff regarding his study and analysis of the operating and financial condition of the motor carriers here involved. This witness further testified that the operating expenses (although some elements have shown increases over the entire four years covered by his cost study) required less from each one dollar of gross operating revenue in 1971 than was required in any of the previous three years; that net operating revenues have increased by more than 30% each year since 1968 even though composite operating ratios averaged in excess of 95%; that the six tobacco study carriers realized operating margins less favorable than other transportation operations in this

State; that no carrier is in a position to receive a disproportionate increase from the proposal herein; and that the proposed dollar revenue increase is 2.6% of the total 1971 revenues received from Tariff 8-L.

The Commission Staff also presented the testimony of I. H. Hinton, who presented certain exhibits which are of record and explained the same in detail.

The filing of briefs was waived by all parties of record.

Upon consideration of the evidence adduced in this proceeding and the official record herein, the Commission makes the following

FINDINGS OF FACT

1. That the common carriers participating in the tariff schedules under suspension in this proceeding are subject to the regulation by this Commission and are in need of additional revenues and should be allowed to make an increase in their rates and charges.

2. That inflation in many phases of intrastate common carrier operations has adversely affected the operating ratios of the Respondents.

3. That the increase in rates and charges and the changes in certain rules herein proposed by Supplements Nos. 3 and 4 are just and reasonable.

4. That the operating ratios presented in this matter by the Respondents are based on a separation of intrastate and interstate expenses derived from a breakdown of interstate and intrastate miles, which said method of separations tends to and does overstate intrastate expenses and, therefore, operating ratios, and results generally in lower system-wide operating ratios when compared to the intrastate ratios; that the operating ratios for intrastate operations are higher than will allow a sufficient profit for continued service; and that the separations evidence in this case did not establish such separations with reasonable mathematical exactitude; however, when viewed in the light of the fact that the changes herein requested were negotiated by the carriers with their customers to the extent that no consumer protest was filed and on the contrary one shipper witness testified in support of the filings herein, we find that the evidence when viewed as a whole does tend to approximate the rateable proportion of their movements in intrastate traffic, which, under the circumstances of this case, is of sufficient probative force to make the findings herein as required by statute.

5. That the Respondents' rates and charges now in effect on intrastate movements of unmanufactured tobacco, materials and accessories are not sufficient to permit them to continue performing adequate and efficient transportation

service to the public under economical and efficient management. The record in this case shows that the carriers transporting the preponderance of these commodities intrastate, have unfavorable operating ratios and that said carriers are generally representative of the tobacco haulers in this State.

Based upon the record in this case and the above enumerated Findings of Fact, the Commission concludes as follows

CONCLUSIONS

1. G.S. 62-146(h) requires this Commission to give due consideration, among other factors, to the effect of rates upon movement of traffic by the carrier or carriers for which rates are prescribed, to the need in the public interest of adequate and efficient transportation service by such carriers at the lowest cost consistent with the furnishing of such service and to the need of revenues sufficient to enable such carriers under honest, economical, and efficient management to provide such service.

2. The cost figures of Respondent motor carriers are based on the cost finding formulae developed by the Respondents which have not been approved by this Commission for determining intrastate costs, and the correctness of same is questionable. Nevertheless, based upon the foregoing Findings of Fact and the record in this proceeding as a whole, we conclude that the Respondents have shown need for the additional revenue the proposed increase will produce, that the proposed increases are not excessive, and that the suspended tariff schedules should be allowed to become effective.

3. G.S. 62-146(g) provides that in any proceeding to determine the justness and reasonableness of any rate of any common carrier by motor vehicle, such rates shall be fixed and approved, subject to the provisions of G.S. 62-146(h), on the basis of operating ratios of such carriers, being the ratio of their operating expenses to their operating revenues. (State v. State, 243 N.C. 12), (Utilities Commission v. Tobacco Association, 2 N.C. App. 657), and (Utilities Commission v. State, 243, N.C. 685). We conclude that the evidence in this record concerning operating ratios of the carriers does separate interstate and intrastate expenses; however, the method employed by the carriers (mileage breakdown and ratios) tends to and does overstate intrastate expenses and, therefore, reflects higher operating ratios and that such evidence is insufficient, standing alone, to approximate the reasonably rateable proportion of their movements in intrastate traffic; however, when considered in the light of facts heretofore found, we conclude that all of the evidence, in this case, is of sufficient probative force and effect to support the approval of the application herein.

4. We do not conclude that the formula and method used in making the separations in this case reflect to a certainty, accurate results, and we advise and enjoin the Respondents herein to continue their efforts for improvement in this area. However, we do conclude that the evidence relates volume and miles to operating expenses and these to the revenue to an extent sufficient, when considered in the light of the circumstance of this case, to demonstrate that intrastate operation does not produce sufficient revenue to provide a fair operating ratio for such operations.

5. We further conclude that the motor common carriers of North Carolina should undertake an active study program to develop and determine a more accurate and equitable method or methods of separations to improve the probative force and effect of their evidence concerning the derivation of intrastate operating ratios as required by statute; and we further conclude that a failure to develop improved, more accurate and equitable separations methods will, of necessity, result in negative findings in the future and we advise and enjoin the carriers to develop and present several improved such methods of separations in future cases upon which this Commission may make more enlightened findings and determinations.

6. We conclude that it is the duty of this Commission to protect the public by requiring service at just and reasonable rates and that duty also requires this Commission to fix rates which are just and reasonable to the utility so that the utility will have sufficient earnings to enable it to give reasonable service.

7. The Commission further concludes that the motor common carriers who are Respondents herein have carried the burden of proof showing that the proposals herein are just and reasonable.

IT IS, THEREFORE, ORDERED:

1. That the Order of Suspension in this docket dated April 19, 1972, be, and the same is, hereby vacated and set aside for the purpose of allowing the tariff schedules to become effective.

2. That publication authorized hereby may be made on one (1) day's notice to the Commission and to the public, but in all other respects, shall comply with the rules and regulations of the Commission governing the construction, filing and posting of tariff schedules.

3. That upon publication hereby authorized having been made, the investigation in this matter be discontinued, and this proceeding be, and the same is, hereby discontinued.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of June, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-825, SUB 157

McDEVITT, DISSENTING. The majority order acknowledges that the mileage ratio method used by the motor carriers to derive their North Carolina operating ratios is based upon the relationship of interstate miles to intrastate miles and overstates intrastate expenses resulting in higher operating ratios than would be produced by other methods. At the same time, the majority puts the motor carriers on notice that use of the mileage ratio method alone will, of necessity, result in negative findings in the future and advises the motor carriers to present several improved methods of separations in future cases so that the Commission may make more enlightened findings and determinations. Yet the majority in this docket is authorizing increases based upon mileage ratios.

I dissent therefrom, believing that mileage ratios alone are insufficient to establish just and reasonable rates. This superficial approach to rate making fails to yield evidence to result in any determination by the Commission that the motor carriers have sustained their statutory burden of proof.

John W. McDevitt

DOCKET NO. T-1077, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of American Courier Corporation - Application for Approval of Change of Control Through Stock Transfer	))))
	ORDER APPROVING CHANGE OF CONTROL THROUGH STOCK TRANSFER

By joint application filed with this Commission on August 21, 1972, Purolator, Inc., 970 New Brunswick Avenue, Rahway, New Jersey 07065, as Transferor, and Purolator Services, Inc., 2 Nevada Drive, Lake Success, New York 11040, as Transferee, seek approval of the change of control of American Courier Corporation, a contract carrier holding Certificate P-131 issued by this Commission, through the transfer of all of the capital stock of said American Courier Corporation from the Transferor to the Transferee. It appears from the application that the Transferor, Purolator, Inc. (formerly named Purolator Products, Inc.), now owns all of the issued and outstanding shares of the capital stock of American Courier Corporation, the transfer of the stock to that corporation having been approved by an order of this Commission in Docket No. T-1077, Sub 7, dated July 5, 1967; that it is proposed that all of the

outstanding capital stock of American Courier Corporation be transferred from the Transferor to the Transferee, Purolator Services, Inc., a Delaware corporation and a wholly-owned subsidiary of the Transferor; that the only matter sought in the application is the approval of the change of control through stock transfer of American Courier Corporation now held by the Transferor, Purolator, Inc., to the Transferee, Purolator Services, Inc., a wholly-owned subsidiary of the Transferor; and that there will be no change in the capitalization, corporate identity or existence of American Courier Corporation, nor will there be any change in the management, operation or service of American Courier Corporation in the State of North Carolina as a result of the transfer of stock ownership.

It further appears from the application that the Transferee, Purolator Services, Inc., is duly incorporated under the laws of the State of Delaware and is in good standing, has legal corporate existence, and is duly authorized to transact business, is certified by the Secretary of the State of Delaware and that the carrier, American Courier Corporation, has actively conducted operations under the authority of said contract carrier permit within the State of North Carolina for many years and is so at the present time.

Upon consideration of the application, the Commission is of the opinion and finds that the change of control of American Courier Corporation through stock transfer from Transferor, Purolator, Inc., to Transferee, Purolator Services, Inc., is justified by the public convenience and necessity within the meaning of G.S. 62-111(a) and meets the criteria of G.S. 62-111(e) in that said change of control is in the public interest, will not adversely affect the service to the public provided by American Courier Corporation under its contract carrier permit, will not unlawfully affect the service to the public by other public utilities, that Purolator Services, Inc., is fit, willing and able to continue and perform such service to the public by virtue of its stock ownership of American Courier Corporation, and that service under said contract carrier permit has been actively conducted within the State of North Carolina for many years and is at the present time.

IT IS, THEREFORE, ORDERED:

That the change of control of American Courier Corporation through the sale and transfer of all of the issued and outstanding capital stock of said corporation from Purolator, Inc., to Purolator Services, Inc., be, and the same is, hereby approved.

ISSUED BY ORDER OF THE COMMISSION.

This the 7th day of September, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. T-681, SUB 33

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Employees Stock Subscription Plan of Helms)
Motor Express, Inc., P. O. Drawer 700,) ORDER
Albemarle, North Carolina 28001)

HEARD IN: The Commission Hearing Room, Raleigh, North Carolina, January 5, 1972, at 10:30 A.M.

BEFORE: Chairman H. T. Westcott (Presiding), Commissioners John W. McDevitt, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

J. Ruffin Bailey, Esquire
Bailey, Dixon, Wooten and McDonald
P. O. Box 2246, Raleigh, North Carolina 27602

For the Commission:

Edward B. Hipp, Esquire
Commission Attorney
P. O. Box 991, Raleigh, North Carolina 27602

WELLS, COMMISSIONER: This matter came on to be heard upon the Commission's own motion by Order of the Commission, dated November 26, 1971.

Respondent, Helms Motor Express, Inc., presented certain exhibits, the testimony of its President, V. L. Burris, and argument of counsel.

Based upon the record herein, the Commission makes the following

FINDINGS OF FACT

1. In Docket No. T-681, Sub 18 (1962), Helms Motor Express, Inc., applied for and received approval from the Commission for sale of a limited number of its Class A common shares to its employees under an employee stock purchase plan.

2. Said common shares are of a par value of $10.00 per share and are duly authorized under Helms' certificate of incorporation, as amended.

3. By letter dated September 23, 1971, Helms informed the Commission of the action of its Board of Directors authorizing its corporate officers to implement said employee stock purchase plan by giving certain of its employees an option to purchase five shares each of said stock at a price of $10.00 per share, said option to remain open from October 1, 1971, through October 30. 1971.

4. Pursuant to said offer, 81 out of approximately 160 employees subscribed to purchase five shares each of said stock. Upon receipt of the Commission's Order herein, all funds received by Helms for the purchase of said stock were refunded and none of the stock so subscribed has been issued.

5. Helms is in a current deficit net worth position and its books of account and balance sheet indicate that its common shares have a current negative value.

6. The stock purchase plan previously approved by the Commission does not provide for repurchase by Helms of said stock proposed to be issued thereunder upon any conditions or at any stated price, and under present circumstances, Helms' employees would be exposed to inequitable and undue risks in purchasing said stock.

Based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

The proposed implementation of said employee stock purchase plan under Helms' present financial circumstances and the issuance of said stock thereunder are not compatible with the public interest, are not necessary or appropriate for or consistent with the performance by Helms of its service to the public, and are not a reasonably necessary or appropriate means of raising or securing capital funds for Helms. The Commission therefore concludes that the previously granted approval of said stock purchase plan should be withdrawn until such time as Helms' financial condition makes it feasible for said stock purchase plan to be implemented.

IT IS, THEREFORE, ORDERED:

(1) That the Commission's previous approval of said stock purchase plan, granted in Docket No. T-681, Sub 18, be, and hereby is, rescinded; and

(2) Helms shall not implement or attempt to implement said stock purchase plan until such time as it shall secure the further approval of the Commission to do so.

ISSUED BY ORDER OF THE COMMISSION.

This the 3rd day of March, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. T-1626

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Joint Application for the Sale and Transfer of Certificate No. C-991 from Talley-Brook, Inc., Monroe, North Carolina, to Larry Dale Campbell, d/b/a Campbell 66 Service, Monroe, North Carolina.	))))	RECOMMENDED ORDER APPROVING TRANSFER

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on Wednesday, November 22, 1972, at 2:00 P.M.

BEFORE: Chairman Marvin R. Wooten, Hearing Commissioner

APPEARANCES:

For the Applicants:

Henry B. Smith, Jr.
Smith, Smith & Perry
P. O. Box 782, Monroe, North Carolina

No Protestants.

WOOTEN, CHAIRMAN: The joint application for the sale and transfer of Common Carrier Certificate No. C-991 was filed with the Commission on August 14, 1972, by Talley-Brook, Inc., Monroe, North Carolina, and Larry Dale Campbell, d/b/a Campbell 66 Service, Monroe, North Carolina.

No protests were filed and no one appeared at the hearing in opposition to the transfer sought.

Public hearing was scheduled and held as captioned in accordance with Commission requirements, after publication in the Commission's Calendar of Hearings issued September 19, 1972.

The Applicants advised the Commission that on September 1, 1972, Transferor was forced to suspend its operations because of personnel problems, which resulted in its losing

its operations personnel, and a Motion for authority to suspend operations was filed with the Commission on September 25, 1972, which said Motion was set for the first order of business in the hearing on this matter.

The joint Applicants appeared and stipulated and testified in detail regarding the transfer herein and the filings heretofore made.

Based upon the testimony of the witnesses, exhibits and relevant records, the Commission makes the following

FINDINGS OF FACT

1. Talley-Brook, Inc., Monroe, North Carolina, is the holder and owner of North Carolina Common Carrier Certificate No. C-991 and that said Transferor was actively engaged in the transportation of commodities authorized thereunder until September 1, 1972, at which time, due to no fault of the Transferor, operations were suspended and authority approving such suspension was timely requested; the rights under said certificate have not been operated since September 1, 1972, but have been continuously offered and operated and have been made available to the public continuously except during that period of time for which authority to suspend operations had been requested; and that authority to suspend operations since September 1, 1972, is in the public interest and should be granted.

2. There are no debts or claims against Talley-Brook, Inc., in the area of taxes, wages due, unremitted C.O.D. collections, loss or damage to goods, overcharges or interline accounts as defined in G.S. 62-111(c).

3. That the Transferee, Larry Dale Campbell, d/b/a Campbell 66 Service, Monroe, North Carolina, is an individual, doing business under said style and name similar to that authorized by transactions here sought to be transferred; that the Transferee 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 service to the public by other utilities.

5. That the Transferor herein has made reasonable efforts to perform service under the franchise sought to be transferred when full consideration is given to all the facts and circumstances in this case and it is hereinabove found that the suspension since the date of September 1, 1972, is fair, appropriate, in the public interest and should be approved.

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 service required.

We conclude that the Transferor in this case, in the light of its personnel problems, has made reasonable efforts to perform the service under its said franchise, when appropriate consideration is given to the disability of said Transferor through the loss of its personnel on September 1, 1972.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the application in this docket be, and the same is, hereby approved and Larry Dale Campbell, d/b/a Campbell 66 Service, Monroe, North Carolina, is authorized to purchase and operate under the authority contained in North Carolina Utilities Commission Motor Common Carrier Certificate No. C-991 pursuant to the terms set forth in the application and as more specifically set out in Exhibit B attached hereto and made a part hereof.

2. That upon consummation of the sale and transfer herein authorized, Talley-Brook, Inc., Monroe, North Carolina, shall return to the North Carolina Utilities Commission Certificate No. C-991 for cancellation and the Chief Clerk is hereby directed to issue a certificate to the Applicant, Larry Dale Campbell, d/b/a Campbell 66 Service, Monroe, North Carolina, containing the authority set forth in Exhibit B attached hereto.

3. That the parties be allowed thirty (30) days from the effective date of this Order in which to consummate the transactions herein authorized, comply with the requirements of this Order, file the required tariff, 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 7th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. T-1626

Larry Dale Campbell
d/b/a Campbell 66 Service
1601 Roosevelt Boulevard
Monroe, North Carolina

Irregular Route Common Carrier Authority

EXHIBIT B

Transportation of Group 21, to wit, Mobile Homes and Modular Homes:

Between all points and places in Union County and from all points and places in Union County to all points and places in North Carolina to all points and places in Union County; provided, that there shall be no authority to transport mobile homes and modular homes in the aforedescribed territory from any point of manufacture or from any manufacturer of such mobile homes and modular homes.

DOCKET NO. R-10, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Atlantic and East Carolina Railway Company, Petition to Close and Discontinue Its Agency Station at La Grange, North Carolina, and to Dismantle and Remove the Present Station Building	)	ORDER APPROVING DISCONTINUANCE OF AGENCY STATION AT LA GRANGE, NORTH CAROLINA

HEARD IN: Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on February 3, 1972, at 10:30 A.M.

BEFORE: Commissioners Hugh A. Wells (Presiding), John W. McDevitt and Miles H. Rhyne

APPEARANCES:

For the Applicant:

James M. Kimzey, Esquire
Joyner & Howison
Attorneys at Law
906 Wachovia Bank Building
Raleigh, North Carolina 27601

For the Commission Staff:

William E. Anderson, Esquire
Assistant Commission Attorney
North Carolina Utilities Commission
Ruffin Building, One West Morgan Street
Raleigh, North Carolina 27602

WELLS, COMMISSIONER: On November 18, 1971, Atlantic and East Carolina Railway Company, a common carrier by rail in the State of North Carolina, filed a Petition by and through its counsel, W. T. Joyner, Jr., Joyner & Howison, Attorneys at Law, Raleigh, North Carolina, seeking authority to close its agency station at La Grange, North Carolina, to dismantle and remove the present station building and to handle future business from its agency station at Kinston, North Carolina. The Petition discloses that Petitioner has not had an agent at its La Grange station since July 1970 because of a lack of personnel, but that the agent from Kinston goes to La Grange three or four times weekly and spends about three hours each day at said station.

By Order issued December 3, 1971, the Commission concluded that the Petitioner has not heretofore sought or obtained authority to reduce service at its station at La Grange, North Carolina, and that service has been diminished at Petitioner's agency station at La Grange as disclosed in its

Petition, and inter alia, that Petitioner should immediately reopen its agency station at La Grange and restore full service at said station during the hours from 8:00 A.M. to 5:00 P.M. daily, Monday through Friday, until the matter might be heard and further order issued.

The Petitioner was ordered to show cause, if any it has, why it has failed to continue to observe its regular hours of service at its La Grange station since July 1970, and why it should not be fined or penalized for said action, and was also ordered to notify the Commission whether or not it has any other station on its line operating on a reduced hourly schedule, or part-time basis, or service changes made, for which it has not sought authority from this Commission and been authorized to operate accordingly.

Petitioner presented testimony of Mr. Leon H. Smith, Superintendent, Eastern North Carolina Division, Southern Railway, and Mr. R. A. Robb, Commerce Statistician, Southern Railway. The testimony of each of these witnesses was illustrated and supplemented by exhibits relating to the operation of the La Grange station as it relates to the operation of Atlantic and East Carolina Railroad Company. Petitioner also introduced, without objection, a number of letters from railroad customers in or near La Grange, which letters either favored or did not object to the closing of the station. These letters included a letter from the Mayor of La Grange stating that the Board of Aldermen had no objection to the closing of the station, provided that the station building be dismantled.

The Commission's Staff offered the investigation report of Transportation Inspector Charles E. Payne.

No witnesses appeared at the hearing in protest to the Petition.

The testimony and exhibits of the Petitioner's witnesses tend to show that the operation of the La Grange agency station was a deficit operation for the year 1970, and by utilizing a formula reflected in the Petitioner's exhibits based upon company prorated expenses on the same amount of revenue, the Petitioner contends that the net contribution to company expenses generated by the agency station at La Grange for the year ending November 1971, is also a deficit figure.

Regarding the aspect of the Show Cause Order issued for failure to observe regular service hours, Petitioner presented testimony and exhibits which tended to show that the La Grange station had not been operated on a full scale basis, due to the fact that the La Grange agent was being used for relief work in other places. Petitioner's evidence tended to show that at the time Southern Railway (present lease-operator of Atlantic and East Carolina) took over the operation of the line, the situation at La Grange had developed into the pattern disclosed in the Petition, and

that failure to keep an agent full time at La Grange was not deliberate on the part of Southern Railway, but was an inadvertence resulting from an existing situation inherited, so to speak, by Southern.

The Petitioner responded to the Commission's directive that it ascertain whether there are other stations operating with unapproved diminished service with the statement that there are no such stations either on the Atlantic and Eastern Carolina Railway or on Southern Railway's Eastern Division.

Based upon the evidence adduced at the hearing, the Commission makes the following

FINDINGS OF FACT

1. Petitioner is a common carrier of property by rail in North Carolina, is subject to the jurisdiction of this Commission and is properly before the Commission in this proceeding.

2. Petitioner's La Grange, North Carolina, agency station is located approximately 12.1 rail miles from its Kinston, North Carolina, agency station.

3. Petitioner proposes to dismantle and remove the La Grange agency station building.

4. There is neither passenger train service offered in connection with the La Grange station nor less-than-carload freight.

5. Under Petitioner's proposal, receivers would continue to be notified concerning incoming carload shipments by telephone and cars could be ordered by telephone, the primary difference being that telephone calls would be made to and from Kinston.

6. Under Petitioner's proposal, shippers could notify the agent in Kinston by telephone and present a bill of lading in person to the local freight conductor who picks up the car or the shipper could authorize the agent by telephone to issue the bill of lading, sign it and mail him a copy.

7. Petitioner posted notice of its proposed petition in connection with dismantling the station agency pursuant to Rule R1-14 of the Rules and Regulations of the Commission.

8. Petitioner's exhibits tend to show both an actual deficit operation and a deficit net contribution to its expenses generated by the La Grange agency station for the calendar year 1970.

9. Public convenience and necessity does not require continued operation of the La Grange agency station and the

public will be adequately served if the agency's operations are handled through the Petitioner's station at Kinston, North Carolina.

10. The failure of Petitioner to properly staff the La Grange station was an oversight and an inadvertence, not deliberately done so as to require penalties in this Order.

Based upon the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

The Commission is of the opinion that the evidence in this proceeding indicates that the Petitioner can provide satisfactory service to its patrons at La Grange, North Carolina, by providing service incident to the receipt and forwarding of carload shipments through its facilities and agency at Kinston, North Carolina.

Under the provisions of G. S. 62-118, which provides as follows:

> "G. S. 62-118. Abandonment and reduction of service. Upon finding that public convenience and necessity are no longer served, or that there is no reasonable probability of a public utility realizing sufficient revenue from a service to meet its expenses. . .",

the Commission has authority to authorize abandonment and reduction of service.

The Commission finds and concludes that public convenience and necessity does not require continued operation of the La Grange agency and the public will be adequately served by the proposal that operations be handled through the Petitioner's station at Kinston, North Carolina.

The evidence indicates that virtually no change in handling and pickup of rail cars would be affected by the instant Petition. The Petitioner proposes here to dismantle its agency station. The method of ordering cars and releasing cars will remain practically the same. It is apparent that the public can and will be adequately served if its business at La Grange is conducted through utilization of the agency at Kinston, North Carolina.

Accordingly, the Commission is of the opinion, and so concludes, that the Petition herein should be approved.

IT IS, THEREFORE, ORDERED:

(1) That the Petition of Atlantic and East Carolina Railway Company in this docket be, and the same hereby is, approved.

(2) That Petitioner be, and hereby is, authorized to discontinue its agency station at La Grange, North Carolina, and handle future business from its agency at Kinston, North Carolina.

(3) Promptly after the closing of the La Grange agency station, the station building shall be dismantled and removed from the premises. Petitioner shall maintain the track facilities at La Grange without any change.

(4) That the Show Cause Order be, and the same hereby is, dismissed.

ISSUED BY ORDER OF THE COMMISSION.

This the 19th day of June, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

DOCKET NO. R-71, SUB 26

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Seaboard Coast Line Railroad Company - Application)
for Authority to Implement the Mobile Agency Concept)
in the Jacksonville, North Carolina, Area, for a) ORDER
Six-Month Trial Period.)

HEARD IN: Courtroom, City Hall, New Bern, North Carolina, February 22, 1972, at 10:30 A.M.

BEFORE: Commissioners Hugh A. Wells (Presiding), John W. McDevitt and Miles H. Rhyne

APPEARANCES:

For the Applicant:

J. R. Davis, Esquire
Seaboard Coast Line Railroad Company
3600 Broad Street
P. O. Box 27581, Richmond, Virginia 23261

Glenn L. Hooper, Jr., Esquire
Ellis, Hooper, Warlick, Waters & Morgan
Box AE, Jacksonville, North Carolina
Jacksonville, North Carolina

For the Commission Staff:

William E. Anderson, Esquire
Assistant Commission Attorney

1 West Morgan Street
Raleigh, North Carolina 27602

WELLS, COMMISSIONER: On December 29, 1971, Seaboard Coast Line Railroad Company (Applicant) filed with the Commission an application seeking authority to implement its Mobile Agency Concept in the Jacksonville, North Carolina, area, for a six-month trial period. The Commission, being of the opinion that the interest of the public was involved, set the matter for hearing on February 22, 1972, ordering the Applicant to give notice of the time, place and purpose of the hearing by appropriate newspaper advertising. The notice of the hearing was appropriately given and the affidavits of publication filed at the outset of the hearing.

A letter of protest to the application was received from E. B. Austin, President of the Merchants Association Division of the New Bern, Craven County, Chamber of Commerce.

The hearing was held at the captioned time and place.

Applicant presented evidence and testimony which tends to show that improvement in highways, communication and computerization of agency accounting have made the Mobile Agency Concept a feasible railroad operation under appropriate conditions.

Applicant's evidence and testimony further tended to show that it proposes to establish a governing agency at its Jacksonville, North Carolina, station where full agency service will be available to the involved area 13 hours a day from 7:00 A.M. to 8:00 P.M., Monday through Saturday of each week. Using Jacksonville as a base of operations, Applicant, by utilizing a radio-equipped van truck containing all necessary office equipment and supplies and operated by a qualified employee traveling a specified route and schedule, will provide complete agency service to the fixed agency and non-agency stations named and set forth in the application. The mobile agent will call on Applicant's customers at their individual places of business in all of the towns and communities named in the application and will prepare bills of lading, furnish information concerning car supply, routing of traffic and perform all other agency services according to customer requirements.

Applicant proposes to arrange for toll-free telephone calling whereby the public in the area to be served by the mobile agent can, by dialing a special number, call the governing agency at Jacksonville for whatever agency service may be needed, anytime between the hours of 7:00 A.M. and 8:00 P.M., Monday through Saturday of each week.

Applicant will install in its Jacksonville agency a communications system which will enable the agent there to request information on railroad car movements directly from

Applicant's computer center in Jacksonville, Florida. By utilizing the mobile agent's radio or the toll-free telephone arrangement into Jacksonville, customers can easily and quickly obtain full information concerning car location and movements.

Applicant has made a detailed study of the workload of the agent at each present agency station and has determined that the Mobile Agency Concept can, without difficulty, handle all agency functions performed at the agency and non-agency stations proposed to be served by the mobile agency. With the implementation of the Mobile Agency Concept, the agency stations affected herein now staffed with a full-time agent on duty eight hours a day, five days per week, will not be open to the public and these agents will no longer be on duty at these stations.

Applicant offered the testimony of two supporting witnesses who stated their previous experience and satisfaction with mobile agency operations of Applicant in other areas. Applicant also tendered several additional supporting witnesses, whose testimony, if offered, would have been favorable to the application.

The Mayor of the Town of Holly Ridge testified in opposition to the closing of the Holly Ridge station, stating that he felt the economic growth and the health of Holly Ridge and the surrounding area would be benefited by the continued presence of a full-time agent at Holly Ridge. He also stated that he had talked with management personnel at Carolina Meat Processors, Inc., at Holly Ridge, who had informed him that their plant would be expanding soon and would require more freight service.

On rebuttal, Applicant offered testimony of J. H. Fryer, Jr., its Regional Sales Manager, who stated that he had discussed the proposed mobile agency with Mr. Ricky Paula, Secretary-Treasurer of Carolina Meat Processors, Inc., and that Mr. Paula had expressed his approval and support of this application.

Having considered all the evidence presented and upon the review of the entire record, the Commission makes the following

FINDINGS OF FACT

1. Applicant, Seaboard Coast Line Railroad Company, is a corporation authorized to do business in North Carolina as a franchised common carrier by rail, and with regard to its intrastate operations, is subject to the jurisdiction of the North Carolina Utilities Commission.

2. Applicant is requesting temporary authority to initiate a mobile agency service in the Jacksonville, North Carolina, area, for a six-month period, which said service

would operate from a base station at Jacksonville and would service the following agency and non-agency stations:

AGENCY	NON-AGENCY	
New Bern	Abbattoir	Calvin
Pollocksville	Belgrade	Deppe
Maysville	Hawkside	Dixon
Holly Ridge	Kellum	Hadnot Point (Camp LeJeune)

In addition to the above, the proposed concept involves the following features:

(1) A central office will be established at Jacksonville and said office will be equipped with telephonic service over which all of Applicant's customers in the involved area may call the agency without cost;

(2) The mobile agent will use a specially equipped mobile van which will be supplied with all necessary office fixtures and supplies used by a railroad agent;

(3) The mobile agent will be expected to perform his usual duties of a railroad station agent, including the checking of tracks at the station to determine cars on hand for demurrage and other purposes. In addition he will be equipped to collect freight charges if the customer so desires and to receive orders for empty cars and provide answers to any inquiries as to available railroad service;

(4) The mobile agent will visit the place of business of each of the railroad's patrons rather than having them come to the agency, as is the case at present; and

(5) The mobile agent will work six days a week, whereas the present agency stations are open only five days a week and the non-agency stations have no agent.

3. Applicant will experience a monetary savings in operation expense by the establishment of the mobile agency.

4. The implementation of the Mobile Agency Concept as proposed by the Applicant does not constitute an abandonment or reduction in service, and that the service afforded by the mobile agency will either replace or improve upon present service being afforded by the Applicant. The movement of trains or the location of track facilities is not affected by this application.

CONCLUSIONS

Based upon the evidence, the record herein, and the Findings of Fact hereinabove setout, the Commission concludes that the application to institute the Mobile

Agency Concept in the Jacksonville, North Carolina, area (as described in the application), should be allowed. The Commission also concludes that a formal and public hearing to determine all issues involved must be afforded prior to the final approval of the changes contemplated by the implementation of the Mobile Agency Concept in this docket.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That, subject to the further order of the Commission, Applicant be, and it hereby is, granted temporary authority and approval to initiate its Mobile Agency Concept and plan in the area and in the manner hereinabove set forth, effective within thirty (30) days after the effective date of this Order.

(2) The said mobile agency operation shall be in accord with the Applicant's proposal as herein set forth and described and shall be subject to the supervision, inspection and investigation by the Commission's Staff, pending further orders of the Commission.

(3) Applicant shall file a report with the Commission which shall include all data accumulated by it on the subject mobile agency operation, said report to be filed within fifteen (15) days after said mobile agency has been in operation for a period of six full calendar months. Upon receipt of said report, the Commission will consider the same and set the matter for further formal and public hearing.

(4) Applicant shall immediately report to the Commission any unforeseen problems or difficulties concerning any aspect of the subject mobile agency operation, in the event such should occur.

ISSUED BY ORDER OF THE COMMISSION.
This the 7th day of March, 1972.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Anne L. Olive, Deputy Clerk

DOCKET NO. P-110

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Arthur Gill and Richard McShane, d/b/a Carteret Radio Telephone Services, for a Certificate of Public Convenience and Necessity to Own, Maintain and Operate a Common Carrier Paging Service and Mobile Radio Service in Morehead City, North Carolina.	)	RECOMMENDED ORDER GRANTING CERTIFICATE AND APPROVING RATES

HEARD IN: City Hall, 202 8th Street, Morehead City, North Carolina, on May 5, 1972, at 10:00 A.M.

BEFORE: Commissioner Hugh A. Wells

APPEARANCES:

For the Applicant:

Henry C. Boshamer
McNeill, Boshamer and Graham
Attorneys at Law
105 N. 10th Street
P. O. Box 767, Morehead City, N.C. 28557

WELLS, HEARING COMMISSIONER: Arthur Gill and Richard McShane, d/b/a Carteret Radio Telephone Services (hereinafter referred to as Applicant), Morehead City, North Carolina, filed with the Commission on February 15, 1972, an Application for a Certificate of Public Convenience and Necessity to own, maintain and operate a radio-paging and two-way mobile radio service in Morehead City, North Carolina. The Applicant proposed to install equipment at a base station location just outside of the Town of Morehead City, North Carolina, sufficient to provide service within a 35-mile radius of Morehead City. The Applicant filed a proposed rate schedule to become effective upon approval by the Commission and granting of a Certificate. The Applicant filed with the Commission on April 27, 1972, amended tariff pages revising the original rate schedule filed.

By Order dated March 3, 1972, the Commission set the matter for hearing on May 5, 1972, in the City Hall, Morehead City, North Carolina. The Commission Order required public notice of the Application for a Certificate in a newspaper having general coverage of the proposed service area. Public notice of the hearing was published in the "Carteret County News Time", a newspaper having general circulation in and around the city of Morehead and the area which the Applicant proposes 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 Arthur Gill and Richard

McShane and 13 public witnesses in support of the Application. There were no protestants 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 the Applicant, Arthur Gill and Richard McShane, d/b/a Carteret Radio Telephone Services, is required by Chapter 62 of the General Statutes to obtain a Certificate of Public Convenience and Necessity from this Commission to operate as a radio common carrier in North Carolina.

2. That radio common carrier service is not now provided at Morehead City, North Carolina.

3. That there is a need for paging and two-way radio common carrier services in Morehead City and Carteret County as testified to by 15 witnesses in this case including businessmen, physicians, nurses and real estate agents.

CONCLUSIONS

The Applicant in this proceeding seeks a Certificate of Public Convenience and Necessity to provide radio common carrier service in intrastate communications within a 35-mile radius of Morehead City, North Carolina, and proposes to provide full common carrier, two-way and paging service to its subscribers. The Applicant proposes to provide interconnection with the landline telephone system which will enable its subscribers to interconnect calls between mobile and landline telephones. The 15 witnesses who testified in this case supported the need for paging and two-way radio service in the Morehead City area. The Commission concludes that radio common carrier service is needed in the Morehead City and Carteret County areas to serve the public. The Commission further concludes that this Applicant should be granted a Certificate of Public Convenience and Necessity to provide radio common carrier service, including interconnection with the landline telephone system, in a service area of a 35-mile radius of Morehead City. It is further concluded that the Applicant should file with this Commission a copy of its Federal Communications Commission application for a construction permit and a copy of the radio license when granted by the Federal Communications Commission. The Commission further concludes that if the FCC license is not granted and operation of the radio common carrier system is not begun within 18 months of the date of issuance of this Order, the Commission should consider withdrawing the Certificate of Public Convenience and Necessity. The Commission further concludes that the tariff including rates and regulations, filed by the Applicant should be approved.

IT IS, THEREFORE, ORDERED:

1. That Arthur Gill and Richard McShane, d/b/a Carteret Radio Telephone Services, be granted a Certificate of Public Convenience and Necessity under Chapter 62 of the General Statutes of North Carolina to provide radio common carrier service with interconnection to the landline telephone system within a service area of a 35-mile radius of the base station antenna located in Morehead City.

2. That the tariff filed by the Applicant, with amendments, is hereby approved to become effective upon commencement of service to the public.

3. That the Applicant file a copy with this Commission of the application to the FCC for a construction permit and a copy of the FCC license when issued.

ISSUED BY ORDER OF THE COMMISSION.

This the 18th day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-10, SUB 312
DOCKET NO. P-29, SUB 81

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for Adjustment of Rates and Charges and Approval of Certain Changes in its Depreciation Rates for Central Telephone Company - Docket P-10, Sub 312, and Application for Adjustments of Rates and Charges and Approval of Certain Changes in its Depreciation Rates for Lee Telephone Company - Docket No. P-29, Sub 81.	) CONSOLIDATED ORDER APPROVING PARTIAL INCREASES IN RATES

DOCKET NO. P-10, SUB 312

HEARD IN: Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, December 7, 1971, to December 10, 1971, and February 8, 1972, to February 9, 1972

BEFORE: Chairman Harry T. Westcott, Presiding, Commissioners John W. McDevitt, Marvin R. Wooten, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant Central Telephone Company:

F. Kent Burns, Esq.
Boyce, Mitchell, Burns & Smith
Attorneys at Law
Box 1406, Raleigh, North Carolina 27602

Richard G. Long, Esq.
Hofler, Mount, White & Long
Attorneys at Law
Roxboro Building
Roxboro, North Carolina

Melvin A. Hardies, Esq.
Ross, Hardies, O'Keefe, Babcock & Parsons
Attorneys at Law
122 South Michigan Avenue
Chicago, Illinois 60603

For the Intervenors:

Thomas F. Ellis, Esq.
Maupin, Taylor & Ellis
Attorneys at Law
33 W. Davie Street
Raleigh, North Carolina
For: Fieldcrest Mills, Inc., Eden, N.C.

T. V. Adams, Esq.
McElwee & Hall
Attorneys at Law
906 B. Street
North Wilkesboro, N.C.
For: Wilkes Area Chamber of Commerce, Inc.

I. Beverly Lake, Jr., Esq. and
Louis W. Payne, Jr., Esq.
Attorney General's Office
Raleigh, North Carolina
For: The Using and Consuming Public

For the Protestants:

W. Harold Mitchell, Esq.
Town Attorney for Valdese, N.C.
P. O. Box 69, Valdese, North Carolina
For: Town of Valdese

For the Commission Staff:

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

DOCKET NO. P-29, SUB 81

HEARD IN: Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on November 30, 1971.

BEFORE: Chairman Harry T. Westcott, Presiding, Commissioners John W. McDevitt, Marvin R. Wooten, Miles H. Rhyne and Hugh A. Wells.

APPEARANCES:

For the Applicant Lee Telephone Company:

F. Kent Burns, Esq.
Boyce, Mitchell, Burns & Smith
Attorneys at Law
P. O. Box 1406, Raleigh, North Carolina 27609

R. G. Long, Esq.
Hofler, Mount, White & Long
Attorneys at Law
Roxboro Building
Roxboro, North Carolina

Melvin A. Hardies, Esq.
Ross, Hardies, O'Keefe, Babcock & Parsons
Attorneys at Law
122 South Michigan Avenue
Chicago, Illinois 60693

For the Commission Staff:

William E. Anderson, Esq.
Assistant Commission Attorney
North Carolina Utilities Commission
Ruffin Building
One West Morgan Street
Raleigh, North Carolina 27602

No Intervenors or Protestants.

BY THE COMMISSION: On June 30, 1971, Central Telephone Company (hereinafter also styled "Central" or "the Company"), N. Street, Lincoln, Nebraska 68501, filed an Application with this Commission for authority to increase its rates and charges for local monthly telephone service, service charges, PBX equipment and trunks, directory listings, key equipment, Mobile telephone service, and other miscellaneous items, and to reduce its rates and charges for zone charges, public pay stations, and color telephone sets.

In its application Central Telephone Company seeks additional gross annual revenues of $3,110,457 based on the level of operations at December 31, 1970, proposing to obtain $216,838 of this increase by changes in its charges for general exchange tariff items, such as service

connection charges and special equipment, and to obtain the balance of $2,893,619 by adjustment of local service charges.

The annual revenue effect of the proposed adjustments in the various general exchange tariff items would be as follows:

1.	PBX equipment	$110,928.00
2.	Directory listings	38,276.40
3.	Key equipment	213,441.60
4.	Mobile telephone service	42,244.80
5.	Reductions in zone charges	(-) 292,442.52
6.	Public pay stations (change to 15% commission instead of commission and rent)	(-) $ 23,989.56
7.	Discontinue commissions on semi-public pay stations	9,000.84
8.	Service connection charges	128,100.00
9.	Color charges	120,831.00
10.	Misc. items	112,109.40

The present and proposed main stations rates and the amount of increase are as follows:

Exchange	MONTHLY FLAT RATE BUSINESS One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.	MONTHLY FLAT RATE RESIDENCE One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.
Asheboro												
Present	11.50	9.75	8.20*	8.20	-	6.25*	6.15	5.15	4.10*	4.10	-	4.25*
Proposed	17.10	14.35	8.20*	14.65	-	6.25*	8.60	6.90	4.10*	7.20	-	4.25*
Increase	5.60	4.60	-	**	-	-	2.45	1.75	-	**	-	-
Bethlehem												
Present	12.05	10.05	-	-	8.05*	-	6.35	5.35	-	-	5.90*	-
Proposed	18.50	15.55	-	15.85#	8.05*	-	9.30	7.45	-	7.75#	5.90*	-
Increase	6.45	5.50	-	-	-	-	2.95	2.10	-	-	-	-
Biscoe, Candor, Troy and Mt. Gilead												
Present	10.55	8.80	7.25*	7.25	-	5.30*	5.70	4.70	3.65*	3.65	-	3.80*
Proposed	15.95	13.35	7.25*	13.65	-	5.30*	8.00	6.40	3.65*	6.70	-	3.80*
Increase	5.40	4.55	-	**	-	-	2.30	1.70	-	**	-	-
Boonville												
Present	11.55	9.80	8.25*	8.25	-	-	6.20	5.20	4.15*	4.15	-	-
Proposed	17.10	14.35	8.25*	***	-	-	8.60	6.90	4.15*	***	-	-
Increase	5.55	4.55	-	-	-	-	2.40	1.70	-	-	-	-
Catawba and Sherrills Ford												
Present	10.50	8.65	7.05*	7.05	-	-	5.70	4.70	3.65*	3.65	-	3.65*
Proposed	17.10	14.35	7.05*	14.65	-	-	8.60	6.90	3.65*	7.20	-	3.65*
Increase	6.60	5.70	-	**	-	-	2.90	2.20	-	**	-	-
Dobson												
Present	12.75	11.00	9.45*	9.45	-	-	6.50	5.50	4.45*	4.45	-	-
Proposed	17.10	14.35	9.45*	***	-	-	8.60	6.90	4.45*	***	-	-
Increase	4.35	3.35	-	-	-	-	2.10	1.40	-	-	-	-

Exchange	One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.	One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.
Eden												
Present	11.75	10.00	8.45*	8.45	-	-	6.35	5.35	4.30*	4.30	-	-
Proposed	18.50	15.55	8.45*	***	-	-	9.30	7.45	4.30*	***	-	-
Increase	6.75	5.55	-	-	-	-	2.95	2.10	-	-	-	-
Efland	(Consolidated with Hillsborough as of 6-6-71)											
Elkin												
Present	11.55	9.80	8.25*	8.25	-	6.30*	6.20	5.20	4.15*	4.15	-	4.30*
Proposed	17.10	14.35	8.25*	14.65	-	6.30*	8.60	6.90	4.15*	7.20	-	4.30*
Increase	5.55	4.55	-	**	-	-	2.40	1.70	-	**	-	-
Granite Falls												
Present	11.45	9.45	7.70*	7.70	-	5.95*	6.10	5.10	3.85*	3.85	-	3.85*
Proposed	18.50	15.55	7.70*	15.85	-	5.95*	9.30	7.45	3.85*	7.75	-	3.85*
Increase	7.05	6.10	-	**	-	-	3.20	2.35	-	**	-	-
Hays												
Present	10.80	9.05	-	-	8.05*	-	5.85	4.85	-	-	5.90*	-
Proposed	17.10	14.35	-	14.65#	8.05*	-	8.60	6.90	-	7.20#	5.90*	-
Increase	6.30	5.30	-	-	-	-	2.75	2.05	-	-	-	-
Hickory												
Present	12.05	10.05	8.30*	8.30	-	6.55*	6.35	5.35	4.10*	4.10	-	4.10*
Proposed	18.50	15.55	8.30*	15.85	-	6.55*	9.30	7.45	4.10*	7.75	-	4.10*
Increase	6.45	5.50	-	**	-	-	2.95	2.10	-	**	-	-
Hildebran												
Present	11.25	9.25	7.50*	7.50	-	5.75*	6.00	5.00	3.75*	3.75	-	3.75*
Proposed	18.50	15.55	7.50*	15.85	-	5.75*	9.30	7.45	3.75*	7.75	-	3.75*
Increase	7.25	6.30	-	**	-	-	3.30	2.45	-	**	-	-

Exchange	One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.	One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.
Hillsborough and Yanceyville												
Present	12.50	11.00	9.50*	9.50	9.00*	8.00*	6.50	5.50	4.65*	4.65	5.50*	4.65*
Proposed	14.90	12.55	9.50*	12.85	9.00*	8.00*	7.50	6.00	4.65*	6.30	5.50*	4.65*
Increase	2.40	1.55	-	**	-	-	1.00	.50	-	**	-	-
Mocksville												
Present	9.15	7.75	-	-	-	-	5.00	4.20	-	-	-	-
Proposed	15.95	13.35	-	-	-	-	8.00	6.40	-	-	-	-
Increase	6.80	5.60	-	-	-	-	3.00	2.20	-	-	-	-
Mount Airy, North Wilkesboro, Pilot Mt., and Mulberry												
Present	10.80	9.05	7.50*	7.50	-	5.55*	8.60	6.90	3.80*	3.80	-	3.95*
Proposed	17.10	14.35	7.50*	14.65	-	5.55*	8.60	6.90	3.80*	7.20	-	3.95*
Increase	6.10	5.30	-	**	-	-	2.75	2.05	-	**	-	-
Prospect Hill												
Present	11.00	9.50	-	8.00	-	-	5.43	4.40	-	3.55	4.45*	-
Proposed	14.50	12.55	-	12.85	-	-	7.50	6.00	-	6.30	4.45*	-
Increase	3.50	3.05	-	**	-	-	2.05	1.60	-	**	-	-
Ramseur												
Present	11.45	9.70	8.15*	8.15	-	-	6.00	5.00	3.95*	3.95	-	-
Proposed	17.10	14.35	8.15*	14.65	-	-	8.60	6.90	3.95*	7.20	-	-
Increase	5.65	4.65	-	**	-	-	2.60	1.90	-	**	-	-
Roaring Gap												
Present	9.40	8.65	-	7.90	-	5.50*	6.40	5.90	-	4.45	5.90*	4.15*
Proposed	14.90	12.55	-	12.85	-	5.50*	7.50	6.00	-	6.30	5.90*	4.15*
Increase	5.50	3.90	-	**	-	-	1.10	.10	-	**	-	-

Exchange	One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.	One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.
Roxboro and Timberlake												
Present	13.00	11.50	10.00*	-	9.50*	8.50*	6.85	5.85	5.05*	-	5.90*	5.05*
Proposed	15.95	13.35	10.00*	13.65	9.50*	8.50*	8.00	6.40	5.05	6.70	5.90*	5.05*
Increase	2.95	1.85	-	#	-	-	1.15	.55	-	#	-	-
Seagrove												
Present	13.05	11.05	9.25*	9.25	-	-	7.95	6.70	5.55*	5.55	-	-
Proposed	17.10	14.35	9.25*	14.65	-	-	8.60	6.90	5.55*	7.20	-	-
Increase	4.05	3.30	-	**	-	-	.65	.20	-	**	-	-
State Road												
Present	11.55	9.80	-	-	8.05*	-	6.20	5.20	-	-	5.90*	-
Proposed	17.10	14.35	-	14.65	8.05*	-	8.60	6.90	-	7.20	5.90*	-
Increase	5.55	4.55	-	#	-	-	2.40	1.70	-	#	-	-
Valdese												
Present	11.45	9.45	7.70*	7.70	-	5.95*	6.10	5.10	3.85*	3.85	-	3.85*
Proposed	17.10	14.35	7.70*	14.65	-	5.95*	8.60	6.90	3.85*	7.20	-	3.85*
Increase	5.65	4.90	-	**	-	-	2.30	1.80	-	**	-	-
West End												
Present	13.95	12.20	10.65*	10.65	-	8.70*	7.90	6.90	5.85*	5.85	-	6.00*
Proposed	17.10	14.35	10.65*	14.65	-	8.70*	8.60	6.90	5.85*	7.20	-	6.00*
Increase	3.15	2.15	-	**	-	-	.70	-	-	**	-	-
West Jefferson												
Present	7.75	6.50	5.50*	5.50	-	-	4.25	3.50	2.95*	2.95	-	-
Proposed	15.95	13.35	5.50*	***	-	-	8.00	6.40	2.95*	***	-	-
Increase	8.20	6.85	-	-	-	-	3.75	2.90	-	-	-	-

Exchange	One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.	One-Pty.	Two-Pty.	Town Four-Pty.	Rural Four-Pty.	Rural Five-Pty.	Multi-Pty.
Yadkinville												
Present	8.55	7.15	6.00*	6.00	-	-	4.65	3.80	3.10*	3.10	-	-
Proposed	15.95	13.35	6.00*	***	-	-	8.00	6.40	3.10*	***	-	-
Increase	7.40	6.20	-	-	-	-	3.35	2.60	-	-	-	-

* These services will not be available to new subscribers. Existing town four-party, rural five- and multi-party services are proposed to be upgraded by the end of 1973.

\# This is a new service not previously offered.

** Subscribers in rural areas under present rates are charged for mileage. Effective with the proposed rates all mileage charges will be discontinued for four-party service. Thus the amount of increase depends on mileage charge currently being charged.

*** This service will change to town four-party.

Central also by this Application seeks approval of changes in the depreciation rates previously in effect, to establish more realistic rates and in order to obtain a more rapid recovery of the investment in depreciable property, both as an expense for the test period and on a prospective basis.

Central further alleged the following:

"The Company's affiliate, Lee Telephone Company ("Lee"), a Virginia corporation qualified to do business in North Carolina as a foreign corporation, is also engaged in providing telephone communications service in North Carolina. Lee's properties are contiguous to properties of the Company and they can be readily integrated with those of the Company. It is contemplated, subject to certain conditions, that the property and business of Lee in North Carolina will be taken over by the Company within the relatively near future. Accordingly, Lee is concurrently filing an application including new schedule of rates and charges matching those filed by the Company."

Upon making said allegation, Central prayed as follows:

"It is requested that the Commission consolidate Lee's application with this application and determine that the rates fixed shall be applied uniformly in the territory now served by the Company and the territory now served by Lee, whether or not such contemplated acquisition of Lee's North Carolina properties and business by the Company shall then have been effected."

APPLICATION OF LEE TELEPHONE COMPANY

Also on June 30, 1971, Lee Telephone Company (hereinafter also styled "Lee" or "the Company") 1201 N. Street, Lincoln, Nebraska 68501, filed an Application with the Commission for authority to increase its local monthly telephone rates, service charges, PBX exchange service, key equipment, joint user rates, and to reduce its zone rates and its charges for color telephone sets.

The Application includes increases totaling $139,115.00 in annual gross revenues as based on operations test period ending December 31, 1970. Lee Telephone Company, also by this Application, sought approval of changes in the depreciation rates previously in effect, in order to achieve more rapid recovery of the investment in depreciable property, both as an expense for the test period and a prospective basis.

In its Application Lee alleged that it could justify higher rates than the rates proposed in the subject application, but that those rates were sought on the basis of uniformity with rates concurrently sought by Central Telephone Company, both Lee and Central being operating subsidiaries of Central Telephone & Utilities Corporation, Lincoln, Nebraska, both providing telephone service in North

Carolina, and Lee having properties contiguous to properties of Central.

In its Application, Lee's allegations included the following: "These proposed rates and charges would not provide a fair return to the Company...It is acceptable only on the basis of uniformity with the rates and charges proposed by Central Telephone Company and on the assumption that the properties and business of the Company will be integrated with those of Central Telephone Company in the reasonably near future."

The Commission, being of the opinion that the Applications affected the interest of the using and consuming public in the areas of North Carolina served by Central and Lee, by Orders entered on July 16, 1971 suspended until further order of the Commission the proposed effective date of the requested increases, declared the proceedings to be general rate cases under G.S. 62-133 and set the matters for hearing in Raleigh, North Carolina. Notice of the Applications and the dates of hearings were published in newspapers of general circulation within the service areas.

NARRATION OF TESTIMONY - LEE APPLICATION

The Application of Lee Telephone Company came on for hearing on November 30, 1971. During the hearing, the applicant offered testimony and exhibits of the following witnesses: Mr. I. L. Grogan, Division Manager of Lee Telephone Company; Mr. R. T. Payne, Vice President, Mid-South Consulting Engineers, Inc.; Mr. K. L. Pohlman, Secretary-Treasurer of Lee Telephone Company; Mr. Keith Knudsen, Assistant Secretary of Central Telephone Company and the Tax Director for Central Telephone Company and all of the affiliated companies; Mr. C. N. Ostergren, Consulting Engineer on depreciation rates; and Mr. Wilson B. Garnett, Executive Vice President of Central Telephone and Utilities Corporation, Lincoln, Nebraska.

The Commission Staff offered the testimony and exhibits of Mr. Vern W. Chase, Chief Engineer, Telephone Rate Division of North Carolina Utilities Commission; Mr. Allen Schock, Staff Accountant; and Mr. Gene Clemmons, Chief Engineer, Telephone Service Division, North Carolina Utilities Commission.

Mr. I. L. Grogan, Division Manager of Lee Telephone Company, testified substantially as follows:

Lee Telephone Company was acquired by Western Power and Gas Company, Inc. (now Central Telephone and Utilities Corporation) in December 1965. Since that time the Company has made gross additions to its North Carolina plant in excess of $5,300,000. For 1970 alone, the test period in this case, gross additions to plant amounted to more than $1.4 million. Included as a part of this amount were expenditures for establishment of direct distance dialing,

expenditures for the program of reducing rural lines to a maximum of four parties by December 31, 1972, replacement of local and toll open wire facilities with cable and automatic number identification equipment for one- and two-party subscribers for all of the Company's North Carolina exchanges.

Since 1965 the Company has re-organized its plant and management personnel and has initiated new management programs. These new programs include participation in a Central system formal training school for plant department employees, the reduction of multi-party service to four subscribers or less per line, replacement of central office equipment with new and more advanced facilities, the replacement of open wire with cable and extensive use of buried cable.

Since May 31, 1968 the total number of stations has increased from 10,278 to 11,751 as of December 31, 1970. The Company's total plant investment has increased from $3,587,486 at December 31, 1965, to $7,824,147 as of December 31, 1970 for an increase of more than 118%. During this same period the plant investment per station increased from $391.10 to $665.80 or more than 70%. Since May 31, 1968, the number of employees has increased from 58 to 69 and the average wage has increased between 14% and 20%.

The total expenditures budgeted for gross additions, replacements and extensions for existing plants for 1971 are $959,800. This amount includes money for extension of conduit and cables, additional central office lines and terminals, additional PABX installations, central office equipment, desk equipment, carrier equipment and ring equipment, transportation and work units and an amount for miscellaneous routine construction and the installation of telephone instruments.

On October 5, 1967, the Company filed with the Commission an Application for increases in its rates and charges. The test period for that case was the twelve months ended on June 30, 1967. The Commission, in its order dated June 6, 1968, approved only a portion of the increases proposed and denied completely certain of the proposed rates. During the intervening eleven months from the cutoff date of the test period in that case to the issuance of the Commission's order the Company increased its plant investment by 26.46%. In the same eleven-month period the plant investment per station increased by 20.22%. Even with the increase in revenue authorized by the Commission, the substantial plant additions and continuing increases in operating costs kept the Company's earnings at a low level and necessitated a request to the Commission in October 1968 for an additional rate increase. The Commission again granted only a portion of the requested increase while the Company's expenses continued to rise and its plant investment continued to increase rapidly. By Order of May 4, 1971, the Commission reduced rates previously approved and ordered the Company to

refund to the customers the difference between the rates authorized effective August 1, 1969 and the rates approved by the May 4, 1971 Order. The refund to the customers amounted to $167,073.45.

The rates proposed in this case as of December 31, 1970 will generate additional revenues of $139,115 or $63,919 in net operating income and a rate of return of 4.54%. In Mr. Grogan's view, "These rates will not produce an adequate return and are being requested in order to make Lee Telephone Company's rates uniform with those applied for by Central Telephone Company in North Carolina and requested in its current rate application (P-10, Sub 312) looking toward a merger of the two companies. The rates proposed are acceptable only on the basis of uniformity with those of Central Telephone Company and the assumption that the two properties will be merged in the not too distant future."

Mr. R. T. Payne, Vice President, Mid-South Consulting Engineers, Inc., testified substantially as follows:

Mr. Payne testified that his firm was retained by Lee Telephone Company to make certain engineering investigations and studies and to testify as to the adequacy of Lee's facilities, the quality of Lee's engineering, construction and maintenance practices. Mr. Payne further testified that he made investigations with regard to the practices pertaining to traffic, equipment and transmission engineering, and the quality of equipment maintenance. The witness testified that he visited all seven exchanges of Lee Telephone Company in North Carolina.

Mr. Payne testified that Lee's current traffic program and the engineering provided by the Company's division equipment department are adequate, the plant records are from good to excellent. Mr. Payne further testified that the Lee Telephone Company system today has been almost completely rebuilt with buried or aerial cable and that the central offices have been expanded and that the majority of the older equipment and all of the obsolete equipment has either been removed or scheduled for replacement. He further testified that toll and EAS trunks have been replaced or expanded and the transmission and noise levels brought within objectives.

Mr. K. L. Pohlman, Secretary-Treasurer of Lee Telephone Company, testified substantially as follows:

The Lee Telephone Company books and records are kept in accordance with the Uniform System of Accounts for Class A and Class B telephone companies as prescribed by the Federal Communications Commission and by the North Carolina Utilities Commission. The operating revenues of Lee Telephone Company per the company books were $1,546,492 for the 12 months ended December 31, 1970. The net operating income as adjusted per company books was $333,087 which is a

rate of return of 4.89% on the rate base at December 31, 1970 of $6,810,815.

After pro forma adjustments, the operating revenues would be $1,446,706, yielding a net operating income as adjusted of $244,104, which yields a rate of return of 3.60% on a rate base of $6,777,929. The operating revenues after the proposed increase in rates would be $1,585,821, yielding a net operating income as adjusted of $308,023 or a rate of return of 4.54% on the original cost at December 31, 1970 of $6,777,929. This figure would yield a rate of return of 3.85% on the $8,007,518 fair value of the investment as calculated at trended original cost by witness Knudsen. After adjustments subsequent to the test period, the total operating revenues would be $1,651,685, yielding a net operating income as adjusted of $381,146.00 or a rate of return of 5.59% on original cost of $6,822,752.

Mr. Keith Knudsen, Assistant Secretary of Central Telephone Company and the Tax Director of Central Telephone Company, testified substantially as follows:

A study was prepared under Mr. Knudsen's direction to determine the trended original cost of the North Carolina properties of the Lee Telephone Company. First, the original cost dollars by each classified account making up the plant and service balance at December 31, 1970, were determined, then the age distribution of the dollars making up those balances was determined. Many of the ages were determined from actual company plant records, but where it was impossible to use actual records from a classified account, selected Iowa-type survivor curves were used. These curves are designed to allocate the total investment to the respective vintage years within the period during which such property was constructed. A price index was either selected or developed for each classified account then a multiplier was determined and applied to the aged original cost dollars to arrive at the trended original cost at December 31, 1970.

The trended original cost was determined for each classified account. The indices used in arriving at trended original costs are based on actual construction cost where possible. The Handy Whitman index series was used on brick building construction and underground conduit. Indices from the Department of Labor, Bureau of Labor Statistics, were used for furniture and office equipment, vehicles, and other work equipment. The book value of the plant in service is $7,824,147 and the trended original cost is $9,270,102. The book amount of the depreciation reserve is $1,166,146. The depreciation reserve assigned to the trended original cost is $1,382,512. The book cost of plant and property, less depreciation, is $6,777,929 and the total trended original cost, less depreciation, is $8,007,518. The depreciation reserve assigned to the trended original cost of depreciable plant has the same percentage relationship to such trended original cost as the book depreciation reserve bears to the

original cost of depreciable plant. The Company also contended that the relationship of the trended original cost of the company's telephone plant in the State of North Carolina to its original cost closely parallels the increase in the consumer price index and each clearly reflects the extent of inflation in cost.

Mr. C. N. Ostergren testified substantially as follows:

Mr. Ostergren testified for the Company with regard to changes in depreciation rates of the various plant accounts. As a foundation for his opinion, the witness testified that he made inspections of the Company's plant in North Carolina during a three-day visit, that he reviewed the plant accounting records and analyzed the history of each account including annual additions and retirements, that he compared the experience of the Bell system with the experience of Lee Telephone Company, that he discussed long-range plans with the Chief Engineer of Central Telephone Company, and that he considered each plant account individually taking as the starting point Bell system depreciation rates.

Mr. Ostergren explained that the overall depreciation expense using the rates he recommended would be 13% higher based on the January 1, 1971 plant balances and that the composite depreciation rates under the proposed rates would be 4.6% as compared with 4.05% under the present rates.

Mr. Wilson B. Garnett, Executive Vice President of Central Telephone and Utilities Corporation and of each of the subsidiaries, testified substantially as follows:

Mr. Garnett, responsible for the overall telephone operations of the Central Telephone System, which includes Lee Telephone Company, testified as to the conditions and circumstances which necessitated filing for additional revenues by the Company. These were increases in plant investment and rapidly increasing costs of operations, including taxes and the cost of capital without comparable increases in the revenues of the Company. The last company rate adjustment in North Carolina was based on operating results for a test year ending May 31, 1968. Since that time, the total investment in plant has increased 58% from $4,939,134 at May 31, 1968 to $7,824,147 at December 31, 1970. Investment per telephone for the same period of time has climbed from $481 to $666. Basic hourly wage rates for non-management employees have increased as much as 20% since December 10, 1967. Wage costs are in excess of 60% of the Company's operating expenses.

Mr. Garnett indicated that the Company purchases part of its materials, supplies and equipment from Centel Service Company, an affiliated distributor company. Central office equipment is purchased directly from the manufacturer. Centel Service Company was incorporated in June, 1967 as a wholly owned subsidiary of Central Telephone Company. Central Telephone Company is an affiliated company of Lee

Telephone Company. Centel Service Company qualifies as a distributor since it does not engage in the operation of telephone properties and, thus, is accorded more favorable prices for the purchase of materials from manufacturers and wholesalers than are available to the individual operating telephone companies.

Centel Service Company has a warehouse in Martinsville, Virginia which serves the Lee Telephone Company from which they can purchase equipment and supplies included in Centel's inventory at prices equal to or lower than Lee would be required to pay for materials of equal quality from any other reliable source. Centel Service Company sells only to Central Telephone Company and its subsidiaries. It does not engage in manufacturing, installation, repair or salvage operations. It determines its prices by maintaining a surveillance of prices charged by other distributors of materials sold to independent telephone companies. During twelve months preceding December 31, 1970, their inventory fluctuated between $206,818 and $432,648. At December 31, 1970, they had an inventory of approximately 1,300 items of materials and supplies valued in excess of $244,000.

There is no contract which requires the operating company to buy from Centel Service Company as well as no contractual obligation for Centel to sell to Central Telephone Company or any of its subsidiaries. During 1968, 1969 and 1970, the North Carolina district of Lee Telephone Company made purchases of $1,392,843 from Centel Service Company which is approximately 64% of the total purchases made by it during this period. For twelve months ending December 31, 1970, the profit of Centel Service Company was 6.63% of gross sales.

A summary of advantages of Centel Service Company to the North Carolina district of Lee Telephone Company includes (1) local warehousing which provides fast service thus making it possible for Lee Telephone Company to maintain a lower investment in materials and supplies and (2) the use of $108,311 of cost-free capital at December 31, 1970, derived by the accounting treatment given to the deferred Federal income tax on the books of Centel Service Company arrived at by means of a consolidated Federal income tax return.

Mr. Garnett discussed the relationship between Lee Telephone Company and Central Telephone Company. Both are subsidiaries of Central Telephone and Utilities Corporation and have operations partly in North Carolina. Since the purchase of Lee Telephone Company by Central Telephone and Utilities Corporation on December 31, 1965, it has been operated separately from Central Telephone Company even though both are subsidiaries operating in the same state. The parent company intends to integrate the two companies' properties and operations in North Carolina.

In line with the Commission's recommendation, the Lee Telephone Company and its affiliates have studied ways and means for the Company's North Carolina properties and business to be integrated with those of its affiliate, Central Telephone Company. As an initial step in this direction, the Lee Telephone Company has undertaken to eliminate the minority interests in its common stock. It has also undertaken to obtain the cooperation of the holders of its outstanding long-term debt, and if successful, will apply to the Internal Revenue Service for the requisite tax rulings. On the assumption that the various problems yet to be resolved can be satisfactorily disposed of, the integration of the North Carolina properties of the two companies will follow thereafter.

Mr. Garnett next commented on the long-range relationship between a telephone company's level of earnings and the cost of service to the public with regards to Lee Telephone Company. He concluded that the telephone business, although a regulated public utility, must compete for the consumer's dollar and the investor's dollar just as any other business; that companies which have better earnings are able to produce a superior product at a price decidedly to the customer's advantage because with satisfactory earnings the company can plan and build for the long range, and that a company must manage its construction programming and current operations in line with its profits.

Regarding plant margin, Mr. Garnett stated that the current subscribers will be subscribers in the future and will benefit from the lower cost of adding new customers. He testified that increased investment per main station has been persistent for many years and will continue in the future.

Mr. Garnett stated that the additional gross revenues asked for by Lee Telephone Company for the State of North Carolina in the rate application was $139,115 and that this additional revenue will not produce a fair return but will at least reduce to some degree deficiency in the Company's current rate of return.

Mr. Vern W. Chase, Chief Engineer of the Telephone Rate Division of the Commission Staff, testified substantially as follows:

The rates as proposed by the Company in this proceeding appear reasonable insofar as the proposed spread between residence and business service and a proposed spread between one-, two- and four-party service. The Company's proposals to increase rates for miscellaneous services such as PBX's and other such equipment appear reasonable as these services have been affected by inflation over the past years as have other services offered by Lee Telephone Company.

Central Telephone Company, the majority owner of the equity stock in the Lee Telephone Company, has let it be

known that it is considering merging the properties of Lee Telephone Company of North Carolina into Central Telephone Company. Central Telephone Company has a rate case pending before this Commission which is now scheduled to be heard on December 7, 1971. Lee is proposing the same rate as is Central in its application. It is desirable that the rates be the same if the companies are to be merged in the near future. A uniform rate schedule would result in more equitable treatment for all subscribers after the merger.

Lee Telephone Company has had zone rates in effect for a number of years within its North Carolina property and now proposes to readjust these rates by rearranging the zones. The Staff recommends that the Commission give consideration to the zone charges that it may authorize for Central Telephone Company in the proceeding heretofore mentioned in setting the Lee zone rates and make the rates the same for both companies. This would be more equitable and simplify the administration of this item if the two companies are merged together. To completely eliminate the zone charges, it would average to about $.35 per main station and PBX trunk per month. To adopt the Staff's proposed zone rates would amount to approximately $.17 per main station and PBX trunk per month.

Mr. Allen T. Schock offered his Audit Report and testified substantially as follows:

Mr. Schock offered testimony and exhibits regarding the examination of the books and records of Lee Telephone Company made by the Commission Accounting Staff covering the twelve months ending December 31, 1970. Mr. Schock testified that North Carolina intrastate operations yield a rate of return on net investment, plus working capital, of 4.62% and approval of the proposed rates would increase the existing rate of return 6.11%; that approval of increased rates would increase the return on common equity from 6.37% to 7.55%; that total debt represents 54.80% of the capital structure with common equity representing the 41.51% and interest free capital 3.69%.

Mr. Gene Clemmons testified substantially as follows:

Mr. Clemmons testified regarding the Staff's service investigations. He concluded that the overall call failure rate was within acceptable limits, and the overall DDD call failure rate of 3.77% was within acceptable limits; the 7.74% of EAS transmission measurements which were outside of the range of 2 to 10 db were somewhat higher than a reasonable objective of 5%, but the Company should be able to easily adjust the trunk loss on these circuits to bring the circuits within the objective. EAS noise readings of 7.76% over 30 dbrnc were higher than a reasonable objective of 5%; with 7 of the 9 measurements which exceeded 30 dbrnc on Walnut Cove to Danbury EAS trunks. He noted that the Company is aware of this problem and should take immediate

action to bring the noise level within a reasonable objective.

He testified that the DDD transmission measurements which resulted in 18.12% of the measurements outside of the range of 3 to 12 db were higher than a reasonable objective of 5%; that the Company should be able to easily correct this problem through adjustment of the carrier levels on these trunks; and that the DDD noise measurements resulted in only 2.67% exceeding 33 dbrnc and were within a reasonable range.

Reports indicate that there has been significant improvement in the number of subscriber trouble reports per 100 stations for each of the Lee North Carolina exchanges, although there have been some months when certain exchanges exceeded a reasonable objective of 6 subscriber trouble reports per 100 stations. Mr. Clemmons concluded that, generally, the number of subscriber trouble reports per 100 stations and the Company's handling of those trouble reports have been reasonably good during 1971.

Similarly, the backlog of held orders for new service for Lee Telephone Company has been within reasonable limits during 1971, with the exception of August and September. The number of held applications for regrade service has also been within reasonable limits during 1971. The Company's installation results during 1971 have shown improvement but further improvement in the Company's handling of service orders needs to be made. The percentage of station appointments not met for Company reasons is still higher than a reasonable objective of 5% or less. During some months of 1971, the percentage of regular installations completed within 5 days has been good, exceeding 95%. However, this has not been consistent and the range has been between 78 and 96.7% during 1971. The Company's handling of special installations has been reasonably good during 1971.

Since January, 1969, Lee Telephone Company has made a substantial reduction in the number of multi-party stations in North Carolina by reducing the percentage from 24% to 1.7% in 1971.

Clemmons concluded that the present condition of Lee's outside facilities and the Company's traffic study program are good, noting that relief on the DDD trunk facilities at each of the Company's central offices should be made within the near future, Clemmons concluded that with a continuing traffic program, the quality of service from the traffic standpoint should be good, and that with the application of the traffic data, Lee Telephone Company will be able to provide the most efficient use of plant facilities.

Mr. Clemmons further testified that he had studied the depreciation rates filed by Lee Telephone Company and concluded that the rates proposed by the Company are reasonable for its North Carolina property.

NARRATION OF TESTIMONY - CENTRAL APPLICATION

The Central Application came on for hearing beginning on December 7, 1971. The Applicant offered the testimony and exhibits of the following witnesses: Mr. S. E. Leftwich, Division Manager and Vice President of Central Telephone Company; Mr. W. E. Thaxton, President of Mid-South Consulting Engineers, Incorporated; Mr. William P. Wiltsee, Telephone Equipment Engineer, Mid-South Consulting Engineers, Incorporated; Mr. K. L. Pohlman, Secretary-Treasurer of Central Telephone Company; Mr. Keith Knudsen, Assistant Secretary of Central Telephone Company and Tax Director for Central and all of the affiliated companies; Mr. C. N. Ostergren, Consulting Engineer on depreciation rates; Dr. Walter A. Morton, Rate of Return Consultant; Mr. Wilson B. Garnett, Executive Vice President of Central Telephone and Utilities Corporation and each of the subsidiaries; Mr. Howard Gene Gaskins, Commercial Engineer with Central Telephone Company; and Mr. Thomas W. Case, District Manager of the Elkin Division, Central Telephone Company.

The Intervenors presented the testimony of the following public witnesses: Mr. John A. Bleynat, Chairman of the Board of County Commissioners of Burke County, N.C.; Mr. Phife C. Ross, Treasurer of Valdese Manufacturing Company; Mr. Lenoir Lowdermilk, Controller of Valdese General Hospital; Mr. C. C. Long, Mayor of the Town of Valdese; and tendered Mr. W. D. Hines, Town Manager of the Town of Valdese; and Mr. Edward Paschal, a member of the Valdese Town Council; Mr. Webb Smalling, Executive Vice President of the Wilkes County Chamber of Commerce; Mr. Elmer S. Kendrick, Chairman of the Wilkes County Chamber of Commerce Telephone Committee and Executive Vice President of Holly Farms; and Mrs. Clara Elliot, Chief Operator of Communications of Holly Farms.

Mr. R. Lewis Alexander, City Attorney for the Town of Elkin, and Mr. Delma M. Brown of Hillsborough also testified as public witnesses.

The Intervenor Fieldcrest Mills, Inc., presented the testimony and exhibits of Dr. Charles E. Olson, Rate of Return Consultant; and Mr. Carl Spain, Corporate Communications Manager, Fieldcrest Mills, Inc.

The Commission Staff presented the testimony and exhibits of Mr. Vern W. Chase, Chief Engineer, Telephone Rate Division; Mr. P. Paul Thomas, Senior Accountant; and Mr. Gene Clemmons, Chief Engineer, Telephone Service Division.

Mr. S. E. Leftwich, Division Manager and Vice President of Central Telephone Company testified as follows:

Central Telephone Company furnishes general and comprehensive local and long distance telephone service from thirty-five exchanges in North Carolina. At December 31,

1970, the Company served 130,171 company-owned stations, and its plant in service represented an investment in excess of $63,138,000. The last general increase for the company was in 1954, although since that time there had been some adjustments in some exchanges. Since 1954, the number of stations in service has grown from 24,764 to 130,761. The total plant in service in 1954 was $4,593,889, as compared with $63,138,178 as of December 31, 1970. The investment per station in 1954 was $186, as compared with $483 at the end of the test period.

Operating efficiencies and improved technology, which have improved productivity during the past years, have enabled the company, until fairly recently, to offset increased costs of operation. Continuing increases in toll usage by customers and concentrated sales of high revenue producing services, such as extension stations, additional lines to existing customers and so-called luxury service and convenience features that produced additional revenues have helped to offset the growing expenses.

Starting in 1969, mileage charges were reduced and zone charges initiated. The company also initiated a program to eliminate 8- and 10-party service outside the base rate areas and 4-party service within the base rate areas. One- and 2-party zone rates were introduced in fifteen exchanges during 1970, with 13 scheduled for 1971 and the remaining exchanges for 1972. These programs have accelerated an already heavy construction program brought about by the customers' own desire for improved service.

The number of employees engaged directly in the operations of the company's property has increased from 613 at December 31, 1966, to 839 at December 31, 1970. In addition, independent contractors were engaged to aid in the work. Other scheduled projects are major improvements in direct distance dialing and toll traffic handling operations, elimination of open wire toll routes and the placing of a large portion of new cable plant underground. In order for the company to fulfill these objectives in a reasonable and orderly manner, sufficient time must be incorporated in the program so that the large amounts of capital which will be required can be raised without affecting the company's ability to render satisfactory service to its subscribers or the subscriber's ability to pay for it.

The number of held orders was reduced from 1,438 as of January 31, 1954, to 82 as of December 31, 1970. As of August 31, 1971, there were only five held orders for new service. Each year a greater percentage of new outside plant construction is being placed underground. In 1970, the cost of new outside plant construction placed underground was more than 52% of the total. There has been a substantial increase in a basic wage rates for Central Telephone Company employees; for plant department employees, the beginning hourly wage has increased from $.91 per hour

in 1954 to $2.10 per hour in 1970, an increase of 130.77%. During this same period, the maximum rate for installer repairmen increased from $1.80 to $4.00 per hour, an increase of 122.22%. Fringe benefits have likewise been increased substantially over this period.

To meet the company's responsibilities, a program of specific and routine construction has been adopted. The total expenditures budgeted for gross additions, replacements and extensions of existing plant for 1971 are $17,839,800.

The preparation of the schedules of rates and charges began when the additional gross revenue required had been determined. Any proposed changes in rates should meet the following overall objectives: first, they should be constructed so as to provide a fair distribution of charges; second, the rates should be simple enough to be clearly understood by the public and easily administered; third, the rates should provide on a reasonably stable basis the amount of revenue required; and fourth, the rate structure should provide for the kind of service that will enable the company to make the most effective utilization of its plant facilities and, at the same time, make it possible to furnish service desired by the subscribers at the lowest practical rates.

In order to distribute charges equitably, the rate structure should provide for uniform rates for comparable services throughout the areas served by the company. To accomplish this, the company proposes uniform rate groups with appropriate rates for each group based upon the number of telephones which can be called without a toll charge. Five exchanges will fall into proposed group 1, nine exchanges in group 2, sixteen in group 3, and five in group 4. Groups 5, 6 and 7 are included in anticipation of the integration of Lee Telephone Company's North Carolina property with those of Central Telephone Company.

Significant changes in zone rates also are proposed, eliminating all mileage charges for 4-, 5-, 8- and 10-party lines, to reduce zone rates for 1- and 2-party lines, and to extend the base rate areas to the exchange boundaries of five exchanges and to enlarge the base rate areas of three exchanges. The proposed changes in mileage and zone charges and the enlargement of base rate areas will result in a loss of revenue estimated to be $292,443 annually.

Testimony of Mr. Leftwich in response to cross-examination by Mr. Hipp:

As of October 25, 1971, there were 139,008 total stations and 96,214 total main stations. The upgrading of customer service brings in additional revenue from the same customer, but at the same time requires a substantial addition in plant facilities which means increased work, as well as additional dollars in plant investment. Central Telephone

Company operates four toll centers located at Hickory, Asheboro, Elkin and Mount Airy. Three of Central's exchanges, plus all of its exchanges in the Roxboro district, home on toll centers of other companies. The proposed increases for various services are not based on a flat percentage increase, but represent what is felt to be equitable in view of today's costs. The value of service concept was taken into consideration on local service rates.

Testimony of Mr. Leftwich in response to cross-examination by Mr. Lake:

In the immediate future, the impact on construction requirements of upgrading will be even greater to some extent than it has been in the past five years. The construction budget for 1972 is in the neighborhood of approximately $16,000,000, which is a reduction of about $1,800,000 from the 1971 construction budget. It is not anticipated that the company's earnings will improve in the near future as a result of placing in service plant that is now under construction or held as a margin because at any point in time there will be plant and property which has not produced all of the revenue that it is capable of producing, and there is no way to stay in business and maintain adequate service levels without having plant margins and plant under construction at all times. As of December 31, 1970, there were 10,253 subscriber lines available for use. This plant margin is necessary because there is a long lead time in engineering and procurement in installation and cut-over of additions to central office, which requires placing of additions in offices generally on a two-year engineering period, so that requirements are projected at least two years in advance, based on historical records and judgment factors.

Testimony of Mr. Leftwich in response to cross-examination by Mr. Ellis:

The proposed increases in the general service items were based on the present day costs of providing those services. There was no attempt to determine what customers subscribe to what services, or to determine what increases would be incurred by any particular customers. The Company proposes that PBX trunk rates be twice the business rates of the respective exchange. No attempt was made to compare the charges made by other telephone companies for similar services. The present day costs on each service was examined but cost studies were not made in the form and detail of data submitted to the Commission on these Services.

Testimony of Mr. Leftwich in response to questioning from the Commissioners:

Generally, after a rate level is established for one party, residential two party is structured in the area of approximately 80% of the one-party rate. Four-party

residential service is priced in relationship of approximately 60% of the residential one-party with the rural four-party priced approximately 30¢ higher than the corresponding four-party town service. The town four-party rate in the Ramseur exchange, as an example, is $3.35 less than the proposed rural four-party rate. No adjustment was proposed in the town four-party inasmuch as that has become or will become an obsolete service offering.

All four-party service is being eliminated in the base rate areas. The rural four-party rates were calculated on the basis that the average four-party customer is located in zone 3 and the rural four-party rate is approximately 60% of the zone 3 one-party rate in each rate group. The business one-party rate has been proposed at approximately twice the proposed residence one-party rate. Weight is given to the value of the service to the user and also to how much the customer will use the service. A business one-party telephone generally will be used considerably more than a residence one-party telephone, and as a result, it is going to take more backup common equipment in the switching center and in every area to support that service.

Mr. W. E. Thaxton testified substantially as follows:

Mr. Thaxton testified that his firm, Mid-South Consulting Engineers, Inc., was retained by Central Telephone Company to study and testify as to the adequacy of the Company's facilities and as to the quality of its engineering, construction and maintenance practices. He further testified that he had investigated and studied the existing plant as to adequacy and condition, the Company's engineering practices for both central office and outside plant facilities, the Company's construction practices, adequacy and accuracy of plant records and record keeping procedures, and Central's trouble clearing and other maintenance procedures. Mr. Thaxton testified on those subjects relating to outside plant facilities in particular. He testified that he had visited 19 of the 35 exchanges of Central.

He further stated that he inspected the buildings, observed the housekeeping, counted pairs and jumpers on the main distributing frame, compared this with cable records and line and station cards at each exchange which he visited except Seagrove and Troy. He further stated that he had observed and inspected the outside plant as to construction, condition, clearances and opened some pedestals to observe the splicing and workmanship. With regard to the adequacy and condition of the exchange buildings, Mr. Thaxton testified that a majority of the exchange buildings have been replaced or enlarged in recent years. He further described the condition of the buildings as solid, fireproof, stationary buildings and that they were built sufficiently large to handle several years' expansion. They were well lighted and very clean. He rated the housekeeping as excellent. He further stated that most of the buildings,

even the smaller normally unattended buildings, are air conditioned. He testified that he found that the outside plant facilities are by and large quite adequate. Mr. Thaxton further stated that the main frame fill, the ratio of terminated pairs to pairs in use, varied from 28% to 62%.

Mr. Thaxton further stated that the outside plant can only be described as in very good condition, as a result of the crash upgrading program of recent years. He stated that Central's engineering proceedings are on a par with or better than the industry standards in North Carolina. He further indicated that Central's construction procedures are consistent with those of the Bell system, other independent telephone systems and REA's. Mr. Thaxton stated that, generally speaking, the cable records and station cards were very accurate considering the construction activity going on. He described the Company's trouble report handling procedures and stated that the number of customer trouble reports per 100 stations for the four months of April, May, June and July, 1971, averaged 7.17 customer trouble reports for the division which he considered in his opinion to be very good. He testified that the 83% figure for July 1971 in installation service appointments kept was very good under the circumstances of the upgrading program.

Testimony of Mr. Thaxton in response to cross-examination by Mr. Hipp:

Mr. Thaxton was asked whether the subject matter that he was given for investigation would include actual level of service to the customers themselves. Mr. Thaxton's answer was no. Mr. Thaxton further answered that he did not go around to various areas making test calls nor interviewing subscribers. He stated that he did watch, observe and check on the records and how the troubles were reported and how the trouble was handled in order to assure himself of the accuracy of the trouble reporting system and so he felt that the subscribers were getting good service.

The witness was asked whether there was any relationship between his percent main frame fill and the number of lines in use as shown in Leftwich Exhibit 1, page 6. Witness Thaxton responded that the main frame fill and equipment lines in use are two different things. He further stated that Central Telephone system engineers order central office equipment on a two-year design period, where cable plant is designed and installed on a five-year to ten-year design interval. Mr. Thaxton further testified that the industry objective of trouble reports per 100 stations is 6.

Testimony of Mr. Thaxton in response to cross-examination by Mr. Lake:

Mr. Thaxton testified that the quality of service of Central has always been good. However, after further questioning, Mr. Thaxton stated that he had never studied the service in the past, but he had talked about it with

friends who live in the Central area. Mr. Lake asked Mr. Thaxton further questions regarding building capacity and growth capacity of certain specific buildings. Mr. Thaxton's answer was that he did not know what the actual capacity was.

Testimony of Mr. Thaxton in response to cross-examination by Mr. Ellis:

Mr. Ellis asked Mr. Thaxton about the crash upgrading program. These questions related to what part of the 1971 budget was attributable to the elimination of multi-party service. Mr. Thaxton did not have specific answers to those questions. Mr. Ellis had further questions relating to margins and expenditures. There were no conclusive answers to these questions.

Mr. W. P. Wiltsee testified substantially as follows:

Mr. Wiltsee is employed by Mid-South Consulting Engineers, Inc., and testified that he performed certain studies relating to the quality of service offered by Central Telephone Company. These studies were concerned with the methods and practices pertaining to traffic, equipment, transmission engineering and the quality of equipment maintenance. He testified that he visited 16 of the Company's 35 exchanges and an exhibit was provided indicating the exchanges visited.

He also indicated that he reviewed the Company's traffic and equipment engineering practices with members of the Company's division staff. Mr. Wiltsee testified that in his opinion, the Company's traffic program meets or exceeds the requirements of a company of its size. He further testified that he believed the implementation of the Company's traffic data system and the excellent objectives which the Company has set for itself, the Company will have the capability to provide an excellent grade of service to its subscribers.

Mr. Wiltsee testified that, in his opinion, the Company's transmission program is excellent. Mr. Wiltsee testified that the Company's equipment engineering methods and practices are adequate and comparable with other larger companies. Mr. Wiltsee testified that he believed the general condition of the Company's central office equipment is very good, and that the Company's maintenance program is sufficient to provide adequate service to meet present day demands. He testified that the quality of the Company's DDD service meets or exceeds the general quality of DDD service in North Carolina.

Mr. Wiltsee further testified that he believes the Company is adequately staffed with competent engineering and maintenance personnel, that the Company's methods and practices are more than adequate for a company of its size, that maintenance performed by the Company's personnel is of high quality and that, considering these factors, the

Company is capable and is in fact providing quality service to its subscribers.

Testimony of Mr. Wiltsee in response to cross-examination by Mr. Hipp:

Mr. Hipp asked for an explanation of what is meant by engineered for one lost call per 100 attempts. He was further asked whether a design of one lost call in 100 would necessarily indicate that actual experience was meeting such a requirement. Mr. Wiltsee replied that there would be no guarantee that you would have an adequate amount of equipment in the future. His answer was that he believed the service today is adequate. Mr. Wiltsee was questioned about the various tests and inspections on individuals or circuits to determine their condition. His response was that the results of those tests were that, in general, the equipment owned and operated by Central Telephone Company was generally in good condition.

Mr. Wiltsee was then questioned about and asked to describe test calls which he made to test DDD equipment and what his objectives were and what the tests revealed. Mr. Wiltsee replied that his tests were performed under the premise that if the equipment was maintained and operated properly then it would provide adequate service to the subscribers.

Mr. K. L. Pohlman, Secretary-Treasurer of Central Telephone Company, testified substantially as follows:

The total North Carolina operating revenues are, for the 12 months ended December 31, 1970, $16,855,990. The North Carolina intrastate portion of the operating revenues was $14,632,881. The proposed rate increase adjustments would add $3,098,015 to make a total operating revenue after the proposed increase in rates of $17,730,896. The total North Carolina operating expenses and taxes for the 12 months ended December 31, 1970, were $13,350,031 and the North Carolina intrastate portion of those expenses and taxes was $11,547,824. After the proposed increase in rates, the operating expenses and taxes are projected to be $13,222,388. The resulting net operating income for the twelve months ended December 31, 1970, was $3,625,162 and the North Carolina intrastate portion was $3,189,949. A proposed rate increase would adjust net operating income upwards by $1,423,451 for a total net operating income as adjusted of $4,613,400 after the proposed increase in rates. The original cost at December 31, 1970, for total Company was $52,317,160 producing a rate of return of 6.93%. The North Carolina intrastate original cost December 31, 1970, was $45,779,723 producing a rate of return of 6.97%. When the increase in net operating income projected after the proposed increase in rates is applied to the North Carolina intrastate original cost, the rate of return is 10.08%.

Mr. Pohlman's testimony in response to cross-examination by Mr. Lake:

During his initial cross-examination of Mr. Pohlman on December 8, 1971, Mr. Lake moved that the Commission dismiss the Application as being an improper filing, on the grounds of the Company's failure to separate intrastate operations. The Commission denied the Motion to Dismiss, ordered the Company to make a separation and furnish it to all parties by January 25, and recessed the hearing until February 8, 1972. Mr. Pohlman's intrastate testimony was given at the resumed hearing.

Mr. Keith Knudsen, Assistant Secretary of Central Telephone Company and the Tax Director of Central Telephone Company and the subsidiaries, testified substantially as follows:

A study was prepared under Mr. Knudsen's direction to determine the trended original cost of the North Carolina properties of the Central Telephone Company. First, the original cost dollars by each classified account making up the plant and service balance at December 31, 1970, were determined, then the age distribution of the dollars making up those balances were determined. Many of the ages were determined from actual company plant records, but where it was impossible to use actual records from a classified account selected hour-type survivor curves were used. These curves are designed to allocate the total investment to the respective vintage years within the period during which such property was constructed. A price index was either selected or developed for each classified account from a multiplier determined and applied to the aged original cost dollars to arrive at the trended original cost at December 31, 1970.

The trended original cost was determined for each classified account. The indices used in arriving at trended original costs are based on actual construction cost where possible. The Handy Whitman index series was used on brick building construction and underground conduit. Indices from the Department of Labor, Bureau of Labor Statistics, were used for furniture and office equipment, vehicles and other work equipment. Similar indices are shown on page 3 of the Knudsen exhibits. The book value of the total plant in service is $63,138,178, and the intrastate portion is $55,243,950. The trended original cost is $76,698,732 for total plant and $67,001,417 for the intrastate portion. The book amount of the total depreciation reserve is $11,335,184, and for intrastate $9,899,665. The depreciation reserve assigned to the trended original cost is $13,796,543, and $12,049,901 for intrastate. The total book cost of plant and property is $52,317,160, and $45,779,723 for intrastate. The total trended original cost is $63,416,355. The trended original cost of intrastate is $55,386,954. The depreciation reserve assigned to the trended original cost of depreciable plant has the same percentage relationship to such trended original cost as the

book depreciation reserve bears to the original cost of depreciable plant. The relationship of the trended original cost of the Company's telephone plant in the State of North Carolina to its original cost closely parallels the increase in the consumer price index, and each clearly reflects the extent of inflation in cost.

Testimony of Mr. Knudsen in response to cross-examination by Mr. Ellis:

Mr. Knudsen revealed that the consumer price index varied greatly from year to year in reference to the trended cost as developed. The fact that the two ended up showing a similar increase in cost is basically happenstance.

Mr. C. N. Ostergren testified substantially as follows:

Mr. Ostergren testified that he had been asked to study the property of Central Telephone Company located in North Carolina to develop an appropriate schedule of depreciation rates and to support that schedule before the Commission. He further indicated that he spent three days in North Carolina, that he inspected 15 buildings and the equipment installed in them. Secondly, he examined the plant accounting records; thirdly, he compared Central's experience with that of the Bell system, particularly Southern Bell in North Carolina; and fourth, he discussed long-range plans with the Chief Engineer of Central Telephone Company, and finally he considered each plant individually, taking as a starting point Bell system rates.

Mr. Ostergren then presented a proposed schedule of depreciation rates for Central property in North Carolina. He testified that the overall depreciation expense under the proposed rates would be 6.5% higher based on 1/1/71 plant balances, that the composite rates under the proposed rates would be 4.82%, as compared to 4.52% under the existing rates. Mr. Ostergren's depreciation exhibit provided his basis for development of an average service life, net salvage and depreciation rate for each plant account with the exception of the station connections account in which he proposed that the annual accruals be made equal to the annual charge without determination of service life, net salvage and annual depreciation rates.

Testimony of Mr. Ostergren in response to cross-examination by Mr. Hipp:

The witness was asked if the basic thing he was trying to get at in depreciation life is life expectancy of his property in service. He answered that basically that is right, modified only to the extent that there is net salvage expended. He was further asked that where most of the plant is new, your judgment is necessarily theoretical judgment rather than practical experience for this new plant. He answered that it is theoretical judgment based on a

tremendous amount of practical experience with somewhat similar plant.

Dr. Walter A. Morton testified substantially as follows:

Dr. Morton testified that the imbedded cost of debt to Central at the end of 1970 was 6.81% and the imbedded cost of preferred stock was 4.88%, but that bonds issued in September 1971 cost 8.09% and a contemplated issue of $15,000,000 additional debentures during 1971 will probably cost in the area of 8%.

The average capital structure of Central for the period 1965 to 1970 has been 43% debt, 8% preferred stock and 49% common equity, but common equity has been approximately 45% in recent years and is expected to remain in this area for the next three years. For his study, Dr. Morton used a structure of 50% debt, 5% preferred stock and 45% common equity; he used 4.88% as the cost rate of preferred stock and 7% as the present (September 30, 1971) imbedded cost of debt.

In ascertaining the cost of equity, Dr. Morton used the investor approach, which finds the cost of equity in the expected dividends and the expected dividend growth, and the opportunity cost - comparative earnings method, which finds the cost of equity capital in the expectation that the company will earn the percentage rate of earnings on book equity of other companies of comparable risk.

At December 31, 1970, Central common stock had a book value of approximately $15 per share, on which the $1.20 dividend rate represented a percentage of dividends to book equity of 8%, compared to 8.7% for electric utilities and about 7% for industrials, who finance expansion largely through retained earnings and therefore have a lower payout ratio.

The earnings of the electrics for the period 1965-1969 averaged 12.5%, and they are now asking for rate increases due to the higher cost of money. Moody's 125 industrials averaged 13.5% and Standard & Poor's, 12.6% for the same period.

Dr. Morton postulated 11.0% to 11.4% earnings on the common equity proportion of a fair value rate base for Central Telephone Company, which is a fair rate of earnings on book common equity of 12.5% to 13% after eliminating an inflation factor similar to that which will be utilized by the Commission in ascertaining a fair value rate base. Dr. Morton's inflation factor, repricing each year's surviving telephone plant in service at current costs in accordance with the CPI, and determining the factor to be 113.6%, rounded off to 114%. The resulting 11.0% to 11.4% recommended rate of return would yield more than that on book common equity, to the extent of the ratio of the excess

of the rate base found by the Commission over the book figures.

Dr. Norton recommended an overall rate of return to Central, on a fair value rate base, of 8.7% to 8.9%, based on the capitalization ratios and the cost of debt and equity components.

Mr. Wilson B. Garnett, Executive Vice President of Central Telephone and Utilities Corporation, and of each of the subsidiaries, testified substantially as follows:

Mr. Garnett, responsible for the overall telephone operations of the Central Telephone System, which includes Central Telephone Company, testified as to the conditions and circumstances which necessitated filing for additional revenues by the Company. These were increases in plant investment and rapidly increasing costs of operations, including taxes and the cost of capital without comparable increases in the revenues of the Company. The last Company rate adjustment in North Carolina was based on operating results for a test year ending January 31, 1954. Since December 31, 1954, the total investment in plant has increased 1008% from $5,699,644 to $63,138,178 at December 31, 1970. This includes acquisition of Hickory Telephone Company in 1957 and the Morris Telephone Company in 1965. Investment per telephone for the same period of time has climbed from $221 to $483. Basic hourly wage rates for non-management employees have increased as much as 130% since 1954. Wage costs are 64% of the Company's operating expenses.

Mr. Garnett indicated that the Company purchases part of its materials, supplies and equipment from Centel Service Company, an affiliated distributor company. Centel office equipment is purchased directly from the manufacturers. Centel Service Company has a warehouse in Martinsville, Virginia, which serves the North Carolina division of Central Telephone Company from which it can purchase equipment and supplies included in Centel's inventory at prices equal to or lower than Central would be required to pay for materials of equal quality from any other reliable source. Centel Service Company sells only to Central Telephone Company and its subsidiaries. It determines its prices by maintaining a surveillance of prices charged by other distributors of materials sold to independent telephone companies. During twelve months preceding December 31, 1970, its inventory fluctuated between $206,818 and $432,648. At December 31, 1970, it had an inventory of approximately 1,300 items of materials and supplies valued in excess of $244,000.

During 1968, 1969 and 1970, the North Carolina division of Central Telephone Company made purchases of $17,476,168 with 49.21% or $8,600,108, being purchased from Centel Service Company. For twelve months ending December 31, 1970, the profit of Centel Service Company was 6.63% of gross sales.

Regarding plant margin, Mr. Garnett stated that the current subscribers will be subscribers in the future and will benefit from the lower cost of adding new customers.

To meet customer obligations, present and future, Mr. Garnett stated that during the six-year period ending December 31, 1976, cost of gross additions to plant would amount to more than 85 million dollars which is in excess of the Company's total plant investment at December 31, 1970. To meet these obligations, additional revenues must be provided to improve the Company's earnings level in order to attract capital.

Testimony of Mr. Garnett in response to cross-examination by Mr. Lake:

Mr. Garnett stated that the only adjustments to local rates since the 1954 rate case were attributed to the establishment of EAS from an exchange to nearby points with the elimination of toll calling between these points.

Testimony of Mr. Garnett in response to cross-examination by Mr. Hipp:

Mr. Garnett stated that the annual revenue per telephone of Central Telephone Company in North Carolina was $108.23 in 1965; $113.50 in 1966; $114.78 in 1967; $121.17 in 1968; $127.44 in 1969; and $132.39 in 1970. These figures reflect subscribers adding services, moving, or being reclassified in addition to the basic local rates which have not changed since 1954.

Next, Mr. Hipp discussed with Mr. Garnett the impact on revenues of upgrading the 23,328 main station customers that were not proposed to receive increases under the rate application since the service they were receiving had been declared obsolete. The increased revenues derived from upgrading these customers were not included in the application. Mr. Garnett also pointed out that the investment associated with the upgrading had not been reflected in the application.

Testimony of Mr. Garnett in response to cross-examination by Mr. Ellis:

Mr. Garnett admitted that North Carolina ratepayers were not receiving the full benefits from Centel since Centel was deriving a profit on the sales to the North Carolina division of Central Telephone Company. Mr. Garnett emphasized the benefits that North Carolina ratepayers were receiving from Centel as testified to earlier.

Mr. Ellis pointed out that interest rates had declined below those considered by Central Telephone Company in the rate application. He also pointed out the additional cash Central Telephone Company would have available due to the 4% investment tax credit and the shortening of the period for

depreciation on equipment. Mr. Garnett was aware of these latter two benefits but not to the amount of money Central Telephone Company would derive from them. These two effects had not been included in the rate application.

Testimony of Mr. Garnett on redirect examination:

Mr. Garnett indicated, regarding the upgrading prospects and their effects upon revenue, that there would be additional expenses associated with the investment such as taxes, depreciation and maintenance. None of these effects had been projected in the rate application.

Mr. Howard Gene Gaskins, Commercial Engineer, Central Telephone Company, testified substantially as follows:

Mr. Gaskins supervised and conducted the separation cost studies separating Central Telephone Company's North Carolina operations between intrastate and interstate as ordered by the Commission.

Mr. Gaskins testified that the separation cost study for this case was made in accordance with procedures outlined in the February 1971 issue of the Separations Manual and covered the period for twelve months ending December 31, 1970. Work for the study was begun in March of 1971 and rushed for completion in order to comply with the Commission's order. Study results were filed with this Commission on January 25, 1972. The study was examined by Southern Bell Telephone and Telegraph Company representatives and by the North Carolina Utilities Commission staff on visits to Hickory, North Carolina, and Lincoln, Nebraska.

Next, Mr. Gaskins explained schedules that were prepared under his direction and supervision reflecting the results of the separation cost study. For the twelve months ending December 31, 1970, the total intrastate operating revenues were $14,558,719 while the interstate portion was $2,175,552.

The following intrastate amounts were allocated: $55,243,950 for telephone plant in service; $764,657 for materials and supplies; $9,899,665 for depreciation reserves; $5,462,835 for operation and maintenance expenses; $2,139,542 for depreciation expense; and $1,533,505 for total taxes other than income taxes.

Mr. Gaskins stated that the ultimate objective in preparing this separation cost study was to provide information to the accounting department, which it needed to make computations to satisfy the Commission's order that the Company provide rate case data on a separated intrastate basis.

Mr. Thomas W. Case, District Manager for the Elkin District of Central Telephone Company, testified substantially as follows:

Mr. Case described his experience in the telephone business and also described the Elkin District of which he is now District Manager. His discussion related to the exchanges and area served as well as a description of toll facilities to and from North Wilkesboro. His testimony described the history of the growth of toll facilities between North Wilkesboro and Elkin. Mr. Case further described what he considered to be improvements in toll service that have been made in the North Wilkesboro office. This discussion included conditions in the toll center at Elkin which affect toll telephone service in North Wilkesboro.

Mr. Case testified that since October, steps had been taken to monitor and improve toll service. This included visits to PBX customers in North Wilkesboro and measurements on direct distance dialing trunks. Mr. Case described the results of observations which had been made under his supervision with regard to toll calls. Mr. Case indicated that it was recognized that it will not be possible to affect measured improvement in toll service until the long overdue installation of toll recording trunks in the Elkin toll center was completed by the equipment manufacturer.

Testimony of Mr. Case in response to cross-examination by Mr. Lake and Mr. Hipp:

Regarding the delay experience with the installation of central office equipment, and whether any delay was experienced with cable facilities, Mr. Case responded that the delays were involved with central office equipment and not cable plant. Mr. Case was cross-examined by Mr. Hipp with regard to the service observations which have been made by the Company. Mr. Hipp also questioned Mr. Case with regard to the testimony of Mrs. Johnson from Jenkins Wholesale. Mr. Case responded that they had experienced some printed circuit card failures during the period when Mrs. Johnson compiled her records on toll failures. Mr. Hipp then asked Mr. Case whether Central had an objective on the percentage of completion of DDD calls on the first attempt. Mr. Case stated that he thought 95% completion on DDD calls is the type of percentage you could expect with all things working properly when you are dialing to a test termination. Mr. Case then responded to Mr. Hipp's questions concerning new equipment which has been ordered to meet tool requirements with a further discussion of the additional trunking which he felt was needed to reduce the service problems. Mr. Case then stated that he expected the installation to be completed within the next several months, and he would anticipate that that would put the Company in a position to render to its customers the type and kind of toll service the Company wants to render and the type the customers want rendered to them.

Testimony of Mr. Case in response to questions from the Commissioners:

Mr. Case was asked some questions from the bench by Commissioner Wells and Commissioner McDevitt. These questions further related to the Company's plans to improve the toll service in the Elkin District. Mr. Case stated that the congestion experienced by these subscribers is coming from a lack of trunking and this is what the Company hopes to see eliminated with the completion of the installation of the additional trunks necessary.

Dr. Charles E. Olson, Associate Professor in Public Utilities and Transportation, University of Maryland, testified substantially as follows:

Dr. Olson accepted Dr. Morton's presentation of the cost of Central Telephone's long-term debt as 7.00%, and the presentation of the cost of preferred stock as 4.88%.

Dr. Olson relied on the cost of capital or opportunity cost standard in his determination of the cost of equity capital to Central Telephone Company, using the earnings price ratio method and the discounted cash flow (DCF) method. These methods were applied to the common equity of the parent Central Telephone and Utilities Corporation (hereinafter also styled "CT&U").

Based on his analysis of the growth rates in dividends per share and earnings per share of CT&U, he concluded that the investor would expect a growth rate in dividends per share of between 5.50% and 6.00%, and that an appropriate dividend yield would be 4.62%, and on the basis of a DCF analysis, he concluded that the cost of equity capital to CT&U is between 10.12% and 10.62%.

After noting the difference in capital structures, he recommended that the Commission set the cost of equity of Central Telephone at between 10.00% and 10.65%, resulting in a total capital cost to Central Telephone of between 8.24% and 8.53%. He concluded that a fair rate of return for Central Telephone is between 8.25% and 8.55%.

Regarding Central's fair value and operating expenses evidence, he concluded that it results in an understatement of the going level of earnings and the going rate of return. Dr. Olson did not allow materials and supplies and cash working capital, but would allow known charges in expenses.

Public Witnesses testified substantially as follows:

Mr. John A. Bleynat, Chairman of the Board of County Commissioners, Burke County, and an officer of Alta-Waldensian, presented a resolution of County Board of Commissioners requesting the Commission to require Central to provide intra-county telephone service without long distance toll charges. Mr. Bleynat then discussed the area

served by Central in Burke County and discussed what he considered to be problems that citizens of Burke County have because EAS is not provided throughout the County. The witness did not have any specific service complaints although he indicated that the biggest complaint he had heard was getting long distance calls outside of the area and availability of switchboard lines at the Alba-Waldensian plant.

Mr. Phife C. Ross, Treasurer of Valdese Manufacturing Company, testified that if the Commission were to grant the rate increase requested by Central, it would impose a hardship on the Valdese Manufacturing Company. Mr. Ross stated in regard to telephone service that his switchboard operator reported that she had difficulty in her long distance operations, and that she had had in recent months considerable difficulty with long distance service. These problems consisted of many busy signals on outgoing toll calls.

Mr. Lenoir Lowdermilk, Controller of Valdese General Hospital, testified that the Hospital service had been good except with problems previously mentioned in regard to long distance calls. Mr. Lowdermilk testified that the proposed increase would impose hardships upon Valdese General Hospital.

Mayor of the Town of Valdese testified that the Town Council is opposed to the rate increase asked for by Central Telephone Company. He further stated that he had had a few complaints about the quality of service. These complaints related primarily to long distance and sometimes locally, getting a busy signal before completion of dialing. However, Mr. Long testified that his primary purpose was opposition to the rate increase.

Mr. R. Lewis Alexander, City Attorney of the Town of Elkin, presented a resolution adopted by the Board of Commissioners of the Town of Elkin. The resolution requested that the Utilities Commission deny the petition of Central Telephone Company to increase telephone rates. Mr. Alexander testified that they get excellent service in Elkin and from Elkin to outstate points but their problems are experienced from Elkin to Dobson, which is the County Seat.

Mr. D. W. Brown, a Hillsborough businessman, testified about paying mileage charges for his telephone service as well as with regard to extended area service from Hillsborough particularly to Durham. He also testified that he was representing a committee appointed by the Mayor of Hillsborough to secure data regarding the Central rate increase. Mr. Brown summarized that his chief complaints were that they have to pay mileage charges and the second is no EAS service.

Mr. Webb Smalling, Executive Vice President, Wilkes Chamber of Commerce, testified that the Wilkes Chamber of

Commerce had made an inquiry into the toll service of Central Telephone Company as a result of what the members considered inadequate toll service or long distance service in and out of the Wilkes area. Mr. Smalling reviewed events from June, 1969, regarding action taken by the Chamber of Commerce in contacts with Central Telephone Company regarding inadequate toll service. Mr. Smalling testified that he could tell no appreciable decrease in the number of complaints while the meetings with Central were going on.

Mr. Elmer S. Kendrick, Chairman of the Telephone Committee of the Wilkes Chamber of Commerce and Vice President of Holly Farms, testified that the Committee on numerous occasions had attempted to alert the telephone company to the lack of proper toll service, and that the Company had promised that in the near future the problem would be alleviated. But according to all surveys, including the operators of Holly Farms Company, the telephone service hasn't improved. Mr. Kendrick indicated that during certain days and hours during the week, that is, the busiest times, the greatest complaint is that they cannot complete a call and that either a busy signal or no answer will be experienced. Mr. Kendrick testified that the Wilkes County Chamber of Commerce Telephone Committee had certain records maintained by various companies in the area concerning the telephone service. These records were maintained by Holly Farms and Jenkins Wholesale. The Holly Farms records were kept at the direction and supervision of Mr. Kendrick. This trouble report consisted of day, calls, number and problems which the Holly Farms operator experienced. Mr. Kendrick further testified that telephone service problems had cost Holly Farms many dollars and losses. On cross-examination, Mr. Kendrick testified that Holly Farms' annual telephone bill was $140,000 to $150,000 a year.

Mrs. Claire Elliott, Chief Operator of Communications with Holly Farms Poultry, testified that they place between 170 and 200 long distance calls each day and that she kept records on every outgoing long distance call that is made and had been keeping these records for 16 years. Mrs. Elliott further gave detailed testimony regarding the long distance call failure rate on calls which were placed from the Holly Farms switchboard. She testified that on December 29, 1971, 81 of 174 calls were completed the first time they were dialed. All of these calls were placed by direct dialing. Mrs. Elliott gave information with regard to call failure rates on other dates and also gave information on the number of attempts required to complete a call.

Mrs. Elliott testified that December 29, 1971, was a fairly typical day as far as the service is concerned. Mrs. Elliott then described in detail other experiences with toll call difficulties. Mrs. Elliott testified that the information she gave is fairly typical of what she encounters every day, all day, except for the automatic identification problem which does not happen every day.

She stated that the most trouble they have is dropping off after they have dialed the complete number. Sometimes they reach recordings, Elkin recording sometimes; sometimes they reach out of state recordings or there is nothing, getting no sound, no place at all. Mrs. Elliott further testified, with regard to incoming calls received at Holly Farms, as to a problem of complaints about busy lines from callers to Holly Farms. Mrs. Elliott further testified that in the last year or two she had not noticed any significant improvement.

Mrs. Brenda Johnson, Chief Switchboard Operator and Receptionist at Jenkins Wholesale, testified that one of her primary functions is operating the switchboard and placing and receiving long distance calls. She further stated that she has kept records as to the problems she has encountered recently in performing this function. Mrs. Johnson described various difficulties she had experienced while making DDD calls. She presented detailed information on the type of failures which she experienced on February 7 and February 4. She testified that the troubles she experienced on those two days were fairly typical of what she encounters every day. She further testified with regard to incoming calls to the switchboard. Mrs. Johnson indicated that the only problems on incoming calls are that customers and salesmen say that they cannot get a ring and they have to get an operator to reach the office.

Mrs. Johnson was asked questions on cross-examination by Mr. Burns with regard to the effect that dialing a number of digits on an outgoing call and then releasing that call would have on the telephone equipment. Mrs. Johnson indicated that she could not answer because she did not know what effect it would have on the equipment.

Mr. Vern W. Chase, Chief Engineer of the Telephone Rate Division of the Commission's Staff, testified substantially as follows:

Central Telephone Company offers town, residence, four-party service at Virgilina and both residence and business town four-party service at West End. These exchanges are both small in number of stations. In the Company's other exchanges having town four-party service, it is continuing this class of service for existing subscribers, but not installing service to new applicants. This is referred to as an obsolete service offering. The Company is not proposing to increase the rate of its town four-party subscribers in this proceeding. If the Commission does grant the Company an increase in rates, part of the increase should be borne by this class of subscribers. The rates for town four-party service should be increased by the same approximate percentage as the one- and two-party service.

As of December 31, 1970, Central had 321 business and 14,315 residence town four-party subscribers. As of

October 25, 1971, these numbers had been reduced to 235 and 10,495, respectively, or a reduction of approximately 27%. The subscribers who have been upgraded during this period of time are producing additional revenue because of the higher rates and the higher grade of service which is not incorporated into the test period. If the Company's proposed increase should be granted, these subscribers' rates will be increased again and produce more revenue which also would not enter into the test period calculations.

The Company also has proposed no increases in five- and multi-party service. The Company has proposed no increase in rates on 23,328 of its main stations out of 9,574 or 25.47%. These 23,328 stations have been regraded to other classes of service or will be in the reasonably near future and, under the Company's rate proposal, not now considered in this rate proceeding. If any increase is granted to the Company, it should be spread among all the subscribers and not just a portion of them.

Central Telephone Company has never had a general rate case for the Company as it is now constituted. Since the last general rate case for Central Telephone Company in North Carolina, the Hickory Telephone Company and the Morris Telephone Company have both been merged into the Central corporation. Merging three sets of rates into one tariff has created a substantial variation in rates for exchanges of similar size. Also, a factor has been the extended area service offering. The Company, in this instance, is proposing to consolidate its rates from all exchanges into four rate groupings which will have a tendency to eliminate some of the present rate discrepancies.

The Company has proposed to increase some of its miscellaneous rates such as for PBXs. These rates should be increased if any rates are adjusted, as these services have been affected by the inflation over the past years as have other services offered by Central Telephone Company. If the Commission does grant Central Telephone Company and Lee Telephone Company an increase in rates and charges and if they should see fit to grant the same rates for the same services to both, a uniform rate schedule would result for the merged company.

The zone charges that the Company is seeking approval of are somewhat less than those now being used but higher than the Commission might consider reasonable; therefore, the staff has prepared an alternate set of rates for the Commission's consideration. Under the Company's zone charge proposal, the Company would receive $112,955 on an annual basis from this source. Under the staff's schedule, it would reduce this amount to $55,233 on an annual basis. To completely eliminate zone charges would amount to approximately $.05 per main station and PBX trunk per month.

The staff does not recommend at this time the elimination of zone charges or lower zone charges than those proposed by

the Company for the reason that this Company has reduced its charges based on distance outside of the base rate areas very substantially in a very short period of time and to further reduce them drastically now would no doubt create a great surge of orders for upgrade service which the Company would not be able to satisfy in a reasonable length of time, probably resulting in much dissatisfaction on the part of the subscribers waiting for this improved service.

The Engineering Department and the Accounting Department of the Commission staff jointly reviewed the assignment of the cost of plant to categories in the apportionment of the cost of the plant in each category among the operations by the application of appropriate use factors whereby direct assignment in accordance with the N.A.R.U.C. - F.C.C. February 1971 revision of the Separations Manual, which is the recognized procedure to divide telephone property costs, revenues, expenses, taxes and reserves between interstate and intrastate operations. The staff is satisfied that the Company has complied with the directives of the manual using the dollar amount as recorded on Central's books of accounts as maintained in accordance with the F.C.C. uniform systems of accounts for Class A telephone companies which has been adopted by the North Carolina Utilities Commission.

Testimony of Mr. Chase in response to cross-examination:

With reference to the obsolete services, there are really two separate increases to be considered: one is the increase due to upgrading which the Company will receive at the time the service is upgraded; the other increase is the increase that this upgraded service may get as a result of this rate proceeding. In the Company's proposal, the additional revenues from neither of these increases is considered in the rate case calculations. It appears reasonable that the first increase for taking the higher upgrade of service should be considered to cover the increased investment and expenses required to upgrade the subscriber's service. However, the second increase should be given some consideration within the framework of this rate proceeding.

Mr. F. Paul Thomas offered his Audit Report and testified substantially as follows:

Mr. Thomas offered testimony and exhibits regarding the examination of the books and records of Lee Telephone Company made by the Commission Accounting Staff covering the twelve months ending December 31, 1970, and at the resumed hearing offered additional testimony and exhibits. Mr. Thomas testified that present North Carolina intrastate operations yield a rate of return on net investment, plus working capital, of 7.51% and approval of the proposed rates would increase the existing rate of return to 10.68%; that approval of increased rates would increase the return on common equity from 8.81% to 15.30%; that total debt represents 45.77% of the capital structure with advances

from parent representing 2.27%, common equity representing the 44.17% and interest free capital 2.82%.

Mr. Thomas testified also regarding a further computation to show the effect on the rate of return from the increased revenue which the Company will receive from the 23,328 main station subscribers referred to in Mr. Chase's Exhibit C, indicating that inclusion of this element would change the present rate of return on investment to 7.87% and the rate of return on investment resulting from proposed rates to 11.05%.

Mr. Gene A. Clemmons, Chief Engineer, Telephone Service Division, testified substantially as follows:

The staff conducted a service investigation from which it is concluded that overall intraoffice and interoffice test calls within acceptable limits although some individual offices had high interoffice failures; overall DDD call failure rate was too high (the DDD call failure rate at Asheboro showed a significant reduction after the high failure rate was called to Company's attention); DDD transmission measurements were too high, but DDD noise measurements were acceptable; EAS transmission measurements, overall, were acceptable but Asheboro trunks were too high; EAS noise measurements, overall, were too high, but the Hickory District was better than the other districts; toll operator service and directory assistance was good; and the percentage of paystations tested by the staff and found out-of-service was within an acceptable range. Subscriber trouble reports have been within a reasonable range for 1971 except for a few exchanges the Company needs to reduce repeat trouble reports, increase percentage of troubles cleared within 24 hours and reduce out-of-service troubles received before 5 p.m. and carried over, and should more uniformly handle trouble reports throughout the districts; installation service results have shown significant improvement during 1971 but considerable variation in the handling of service installations between districts exists; regrade applications were substantially reduced during 1971 and the present schedule should eliminate all on hand by end of 1971, and the Company is reasonably current; multi-party subscribers have been reduced in recent years but 5000 remain and the Company should expedite the reduction and elimination of all five-, eight- and ten-party lines.

The Company's traffic study program is basically sound but shortages of local and trunking equipment indicates the Company should make better use of the traffic data for improving service and engineering equipment additions; the Company has exerted substantial effort to improve service and improvements are noted in most of the Company's operations, and the present level of service should be maintained with improvements as mentioned above.

The Staff's observation of outside plant indicated the plant was generally in good condition but contained a

considerable amount of open wire and distribution wire. The percentage of open wire and distribution wire is declining. Investment in buried plant is fairly low but is increasing at a good rate and the Company should continue to emphasize the use of buried plant. Fine gauge cable concept is being used when engineering new plant additions. A subscriber loop measurement program has been initiated but noise measurements are not included and should be.

The depreciation rates filed by Central Telephone Company are reasonable and alternate rate recommendations were not offered.

Based upon the entire record of the proceeding, including testimony and exhibits, the Commission makes the following

FINDINGS OF FACT

1. Central and Lee are duly franchised public utilities providing telephone service to their subscribers in 35 Central exchanges and 7 Lee exchanges, for a total of 42 local exchanges in Piedmont and Western North Carolina, and are duly created and existing corporations authorized to do business in North Carolina and are properly before the Commission in these proceedings for a determination as to the justness and reasonableness of their proposed rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. The applications of both Central and Lee contain a request that the two proceedings be consolidated for decision in order that the rates approved in the two cases might be uniform, in anticipation of the merger of the North Carolina exchanges of Lee with Central. The Commission finds as a fact that it is in the public interest to consolidate the applications of Central and Lee and to fix uniform exchange rates for both Central and Lee, in order to remove inequities between the rates of the respective exchanges and to establish uniform rate groupings in accordance with the uniform calling scope for the combined exchanges of Central and Lee. The operation of Lee in North Carolina consists of seven small predominantly rural exchanges, which has caused problems regarding the feasibility of separate rate making for such a small telephone unit, and they should be consolidated with the affiliated exchanges in North Carolina, in order to provide a sufficient base of operations to establish an economic North Carolina rate making unit.

3. The total net increases in rates and charges as filed by Central and Lee would produce $3,110,457 for Central and $139,464 for Lee, for a total of $3,249,921 in additional gross annual revenue, after allowing for reductions filed in zone charges and color set charge totaling $413,273.52 in annual reductions for Central and $28,215.60 for Lee, leaving the combined additional net increase in annual revenues applied for of $3,249,921 for Central and Lee.

4. The test period utilized by all parties and set by the Commission in both proceedings was the twelve-month period ending December 31, 1970.

5. The original cost of Central's net investment in telephone plant in service in its company-wide service area on December 31, 1970, was $167,536,133, of which $51,802,994 was in service in the State of North Carolina. Of the total plant of Central in service in North Carolina, 87% was devoted to intrastate service under rates subject to the jurisdiction of the Utilities Commission, constituting intrastate plant in service in North Carolina on December 31, 1970, for Central of $55,243,950, less reserve for depreciation of $10,338,132, with a net investment in intrastate telephone plant of Central in service in North Carolina on December 31, 1970, of $44,905,818; and the total investment of Lee in service in North Carolina and Virginia was $35,024,267, less depreciation of $6,382,211, for total net investment of Lee of $28,642,056, of which Lee had in service in North Carolina total plant of $7,897,028, less depreciation of $1,229,797, for net investment of Lee in North Carolina of $6,667,231; and Central and Lee combined have telephone plant in service in North Carolina on December 31, 1970, of $63,140,978, less depreciation of $11,567,929, for a combined net investment in North Carolina of Central and Lee on December 31, 1970, of $51,573,049.

6. That under present rates, reasonable materials and supplies required for the operation of Central and Lee business in North Carolina are $874,584; that reasonable cash working capital requirements are $535,051; that there was available at the end of the test period $582,224 of tax accruals available for use as working capital, with a total net working capital requirement in the rate base requirements of $824,431.

7. That under present rates the net investment in plant in service and working capital allowances at the end of the test period December 31, 1970, for Central and Lee was $52,397,480.

8. That Central's and Lee's combined total operating revenues in North Carolina during the test period under the present rates were $16,364,247; that reasonable operating expenses for said intrastate service for the test period are $12,692,385, leaving net operating income of $3,671,862, adjusted for end-of-period income of the plant in service, by additional net income of $126,585 with net operating income adjusted for the test period of $3,798,447.

9. That the ratio of net income under the present rates as applied to the net investment in telephone plant of $52,397,480, including working capital as adjusted for tax accruals, is 7.25%.

10. That after fixed charges on bonds and short-term notes of $1,588,118 and on preferred stock of $112,543, for

the test period as allocated to the North Carolina operation, there remains net income for equity of $2,093,202; that the common equity investment in service in North Carolina at the end of the test period was $24,768,561, producing a return on common equity under the present rates on intrastate service in North Carolina at the end of the test period of 8.45%.

11. That the Commission finds that the return on common equity of 8.45% is insufficient to compete in the market for capital funds on terms which are reasonable and which are fair to the companies' customers and their existing investors, considering changing economic conditions and other factors as they exist, and to maintain their facilities and services in accordance with the reasonable requirements of their customers in the territory covered by their franchises.

12. That the replacement cost determined by trending original cost to current cost levels of Central's and Lee's combined property rendering service in North Carolina is found to be $63,394,472, being $55,386,954 for Central and $8,007,518 for Lee.

13. The Commission finds that the fair value of the Central's and Lee's combined property rendering telephone service to their North Carolina subscribers, considering the original cost less depreciation and considering replacement cost by trending original cost to current cost levels, is $57,500,000, giving equal weight to replacement cost and original cost, rounded.

14. The rate of return deemed necessary on the fair value of the applicants' property devoted to intrastate service in North Carolina, under sound management to produce a fair profit to stockholders, considering economic conditions as they exist and permitting applicants to maintain their facilities and service, and further permitting applicants to expand their service in accordance with the standards set by the Commission, is 7.92%; that to earn said rate of return on fair value will require additional annual revenue of $1,649,954 based on test period operations, after adjustments for probable future revenues and expenses based on the plant and equipment in operation at the end of the test period. This amount is 50.4% of the increase applied for by the applicants in these proceedings. The increases applied for by the applicants in excess of the above amount are deemed to be and are found to be unjust and unreasonable by the Commission, and rate increases to produce the additional $1,649,954 revenues required for the rate of return approved by this Order are found to be just and reasonable and to require the rate increases approved herein, which may reasonably be charged by the applicants for telephone service rendered to their customers in service in North Carolina.

15. The rate of return of 7.92% on the fair value of the property allowed by this Order will provide a return on common equity after fixed charges of 11.5%, which the Commission finds is sufficient to allow the applicants to compete in the market for capital funds on a reasonable basis to their customers and to their existing stockholders.

16. That applicants' total operating revenues under the rates approved herein in Appendix "A" attached to and made a part of this Order, as applied during the test period, would be $18,007,602; that the fixed charges computed for the test period based upon the known imbedded cost of debt for Central and Lee of 6.68% and 6.04%, respectively, at the end of the test period, as applied to the debt allocated to North Carolina service at the end of the test period of $24,550,461 in long-term debt and $3,046,613 in advances from the parent, produces fixed charges of $1,588,118; that total operating deductions for test period operations adjusted to the rate increases allowed herein will be $13,580,664, with net operating income for the test period of $4,553,523; that adjusted for the approved rate increases, the ratio of equity to long-term and short-term debt is 43.83%, and said net income of $4,553,523 plus other income of ($4,584) produces income available for fixed charges in the amount of $4,548,939, and after payment of fixed charges of $1,588,118, leaves $2,848,278 available for common equity; that said balance of $2,848,278 for common equity of $24,768,561 produces a return on common equity of 11.50%.

17. That Central and Lee are providing reasonable, adequate and efficient telephone service to their subscribers in their service areas in this State, however, evidence introduced by the Commission Staff and public witnesses reveals that certain areas of service should be improved.

18. That the reasonable depreciation rates to be applied by the companies and used in computing the companies' depreciation expense in these cases are the rates shown in Appendix "B" attached hereto and made a part of this Order.

19. That the proposed calling scopes for local exchange groupings filed in the Central application are unreasonably narrow in range in groups 1 and 2 and groups 5 and 6, and a reasonable calling scope grouping is found to include 5 groups as shown in Appendix "A" attached hereto, and said calling scope rate groupings in Appendix "A" are found to be just and reasonable for assignment of all local exchange rates for Central and Lee on a uniform non-discriminatory basis for the combined local exchanges of said affiliated companies.

SUMMARY

The Applications of Central and Lee in these proceedings seek increases and decreases in rates to produce $3,249,921

of additional revenue from the customers receiving service at the end of the test period.

The Commission has found as a fact that such proposed total increases are unjust and unreasonable and will produce a return greater than a reasonable rate of return on the telephone plant in service at the end of the test period. The Commission further finds as a fact that the present rates of Central and Lee combined are insufficient to produce a fair rate of return to said companies, and has found as a fact that an increase in the revenues in the amount of $1,649,954 is necessary to produce a reasonable rate of return on the fair value of the companies' property in service at the end of the test period, and that increases in monthly rates and other charges to produce such additional annual revenue are just and reasonable. The distribution of said total annual increases over the respective monthly rates and other rate changes filed herein for the modified rate groupings are discussed under the Conclusions in this Order, and the prescribed increases for each specific charge are set out in the ordering paragraphs and Appendix "A" of this Order.

The following Tables, based on the Findings of Fact, show the basis for the $1,649,954 found to be a reasonable annual increase in the applicants' revenues from the record in this proceeding.

CENTRAL TELEPHONE COMPANY AND LEE TELEPHONE COMPANY
COMBINED NET OPERATING INCOME AND NET INCOME COMPUTATIONS
FOR THE TEST PERIOD ENDING DECEMBER 31, 1970,
AFTER ADJUSTMENTS

	At Present Rates	Approved Increase	At Approved Rates
Operating Revenues			
Local Service Revenues	$10,211,693	$1,649,954	$11,861,647
Toll Service Revenues	5,492,608		5,492,608
Miscellaneous Revenues	707,069		707,069
Uncollectible Revenues	(47,123)	(6,599)	(53,722)
Total	$16,364,247	$1,643,355	$18,007,602
Operating Revenue Deductions			
Operating Expenses	6,226,465		6,226,465
Depreciation	2,782,727		2,782,727
Taxes-Other than Income	1,812,210	98,601	1,910,811
Taxes-State Income	193,204	92,685	285,889
Taxes-Federal Income	1,630,519	696,993	2,327,512
Deferred Income Taxes	48,045		48,045
Investment Tax Credit Normalization	48,832		48,832
Investment Tax Credit Amortization	(49,617)		(49,617)
Total	$12,692,385	$ 888,279	$13,580,664
Net Operating Income	3,671,862	755,076	4,426,938
Add: Annualization Adjustment	126,585		126,585
Net Operating Income for Return	$ 3,798,447	$ 755,076	$ 4,553,523
Investment in Telephone Plant in Service			
Telephone Plant in Service	63,140,978		63,140,978
Less: Depreciation Reserve	11,567,929		11,567,929
Net Investment in Telephone Plant in Service	$51,573,049		$51,573,049
Allowance for Working Capital			
Materials and Supplies	874,584		874,584
Cash	535,051		535,051
Less: Tax Accruals	585,204	136,060	721,264
Total Allowance for Working Capital	$ 824,431	$ (136,060)	$ 688,371
Net Investment in Telephone Plant Plus Allowance for Working Capital	$52,397,480	$ (136,060)	$52,261,420
Rate of Return - Percent	7.25		8.71
Pair Value Rate Base	$57,500,000		$57,500,000
Rate of Return- Percent	6.61		7.92

CENTRAL AND LEE COMBINED
RETURN ON COMMON EQUITY
TEST PERIOD DATA, AS ADJUSTED

	Present Rates	Approved Rates
Net operating income for return	$ 3,798,447	$ 4,553,523
Other income - Net	(4584)	(4584)
Amount available for fixed charges	3,793,863	4,548,939
Fixed charges	1,588,118	1,588,118
Preferred dividends	112,543	112,543
Amount available for common equity	2,093,202	2,848,278
Common equity	24,768,561	24,768,561
Return on common equity - percent	8.45%	11.50%

CENTRAL AND LEE COMBINED
CAPITAL STRUCTURE

TYPE CAPITAL	AMOUNT	TOTAL %	EMBEDDED COST AND RETURN %	OVERALL COST RATE	ANNUAL INTEREST AND RETURN REQUIREMENTS
Long-term debt	$24,550,461	43.45	6.68	2.90	1,640,761
Advances from Parent	3,046,613	5.39	6.04	.33	183,978
Interest free capital	1,676,632	2.97	-0-	-0-	-0-
Preferred stock	2,466,027	4.36	4.56	.20	112,543
Common equity capital	24,768,561	43.83	11.50	5.04	2,848,278
TOTAL CAPITAL-IZATION	$56,508,294	100.00	-	8.47	4,785,560

Based upon the Findings of Fact, as set forth above, the Commission makes the following

CONCLUSIONS

1. The Commission concludes that no more than 50.4% of the total overall rate increase filed by Central and Lee is necessary to provide a fair rate of return to Central and Lee on the fair value of their combined property in service at the end of the test period.

2. The rate increases proposed by Central and Lee in the application are found to be unreasonable and unjustified to the extent that they produce total increases on the annualized revenue from the customers at the end of the test period in excess of $1,649,954 (increases of $2,090,743, minus decreases of $441,489).

3. The Commission has found that the fair value of the plant in service is $57,500,000 and that a fair rate of return on the fair value of the plant is 7.92%, bringing net income for return of $4,553,523. This produces a ratio of net income to the original cost of the property of 8.71% and a return on common equity of 11.50%.

4. The Commission finds and concludes that the said approved annual increase in rates of $1,649,954 should be derived from uniform increases for Central and Lee as shown in Appendix A, in rates for (a) PBX equipment, (b) Directory listings, (c) Key equipment, (d) Mobile telephone equipment, (e) Service connection charges, and (f) miscellaneous items; that decreases should be allowed as shown, in (g) zone charges, (h) color set charges and (i) changes in installation agreements for public and semipublic pay stations; and that the balance of the total annual increases of $1,649,954 should be derived from net increases in the (j) monthly rate for local telephone service, based on approval of the uniform calling scope rate groupings for all exchanges of Central and Lee. The application of uniform rate groupings for all exchanges produces some variation in the percentage increases for different exchanges, and in some instances results in decreases in monthly rates, where the exchange rate heretofore in effect exceeded the approved rate, but the variance in rate changes is necessary to achieve non-discriminatory local exchange rates between all customers of the affiliated companies, and to remove inequities in the present rate groupings.

5. The Commission has long supported a reduction in the zone charges for telephone service to customers outside of the base rate area in North Carolina in order to reduce this burden upon the telephone service to rural customers, and finds and concludes that the reduction in zone rates herein approved are just and reasonable in order to remove a portion of the differential in rates to rural customers as compared with the base rate to urban customers. The elimination of the charge for color telephone sets is

approved on the grounds that the evidence does not justify an extra charge based on the color of the telephone set.

6. The Commission finds that the local monthly rate is a fixed charge or flat rate charge for furnishing of the basic telephone set on the customer's premises, without regard to the amount of use an individual customer may make of his telephone set (except as reflected in the classification of customers, for rate purposes, between residential and business customers) and that as much of the necessary and approved increases in rates as possible should be placed on charges for service and for actual use of the telephone set and telephone plant, with as small an increase in the local monthly rate as possible. For this reason, the Commission leaves a greater burden of the increases on directory charges, mobile telephone charges and miscellaneous charges and reduces the increases filed for the local monthly rates to approximately 50% of the increases sought in standard residential and business service, and 66% of the increases sought in PBX and key system service, on an overall basis, subject to variations necessary to provide uniform calling scope rate groupings. The overall rate increases and decreases approved in Appendix A will produce an increase of 10% in the total North Carolina revenues of Central and Lee, and will be an overall increase of 16% in the local service rates of the combined companies. Most of the increases in cost of furnishing service shown in the record to justify the rate increases relate to increases in expenses from actual use of the telephone set and telephone plant, and the Commission finds that such increases in costs should be provided from the use charges and special charges as described above, and that only the balance of the increase necessary be derived from the local monthly rate and has so prescribed in the approved rate increases set forth in Appendix "A" attached hereto.

7. Central and Lee combined have an equity ratio of 43.83%. The return on equity of a utility company must necessarily be influenced by the debt-equity ratio because of the leverage factor from the fixed charges applicable to debt, with the remainder of the earnings available for common equity. The cost of equity capital varies with the equity ratio in the capital structure of a company, as the lower the percentage of debt in the capital structure the lower the risk to equity capital, and the lower the cost of equity capital, with a low debt ratio. For the corresponding reason, equity capital can expect a higher rate of return when the company utilizes the leverage of a high debt ratio, with high fixed charges and high risk to equity, but with all remaining earnings available to the smaller ratio of equity capital. For these reasons, the Commission has allowed a return on equity in the amount of 11.50%.

8. Central and Lee are obsoleting multi-party service in all of their exchanges. Despite the eroding of rate of return Central and Lee have invested larger and larger sums

of money in new and modern telephone plant so that most of its plant is only a few years old. This is evidenced by the fair value evaluation herein made on its plant in service. The Companies have been and are replacing aerial wire with underground cable at a reasonably rapid rate and its held orders are relatively few. The companies have adequate and qualified service, repair and operating personnel, and appear to be working diligently to correct those service difficulties which do exist, a portion of which have been occasioned by rapid growth and upgrading of facilities with new and complex equipment which is not yet thoroughly debugged. The service problems of this company are unlike service problems arising from old, obsolete plant which has suffered from inadequate maintenance and neglect. We conclude that Central and Lee must continue to be alert to its service problems and act responsibly to eliminate them.

9. The ability of Central and Lee to provide adequate service in their service areas and to construct needed plant to meet the increased demand for telephone service under the provisions of North Carolina law requires that their earnings be maintained at a level so as to attract the capital needed for such services and the construction programs proposed. The increased cost of providing service, including increased wages and the increases in the cost of equipment and the cost of installing new telephones and improving service to existing telephones, with the investment per main station in the central office are amply shown in the record. Increased interest charges must be covered with sufficient funds remaining for dividends to attract investors in common equity.

10. The Commission has considered the adjustments proposed by the company in conforming certain expenses to the test period and the adjustments proposed by the Commission Staff and other witnesses and finds and concludes that the adjustments should be determined as follows:

(a) Postage Rate Increase. This increase is a known change and the adjustment is allowed.

(b) Rate Case Expense. The Commission finds that the 5-year amortization in the Staff exhibit is just and reasonable and disallows the company's 3-year amortization.

(c) Lease Rental. Disallow the expenses for the portion of the building not devoted to public use.

(d) Contributions. Disallow contributions from operating expenses.

(e) Moving Expenses. Disallow $2,111 of non-recurring moving expenses.

(f) Wage Increases. Disallow $89,474 of wage increases occurring after the test period.

(g) Depreciation Expense. Allow the depreciation expenses in accordance with the depreciation rates approved in this proceeding.

(h) Taxes other than Income. Disallow social security taxes on wage increase after the test period.

(i) State and Federal Income Taxes. Allow adjustments to Federal and State Income Taxes in accordance with the adjustments approved or disapproved above.

(j) Depreciation Reserve. Increase depreciation reserve to allow for the higher depreciation rates approved in this proceeding.

(k) Working Capital Allowance. Adjust working capital allowance to conform to income tax accruals and tax expenses approved.

(l) Toll Adjustment. Increase toll revenue $293,196 to account for increase in toll revenue from Docket No. P-100, Sub 26, Uniform Toll Rate Adjustment.

11. The Commission has considered the company's evidence as to the increased cost of providing PBX equipment and Key equipment and has considered the evidence offered by protestants regarding the excessive increase in charges for PBX and Key equipment, and the Commission concludes that the company evidence justifies two-thirds of the increase applied for in PBX and Key equipment, based upon the cost of providing said service, but that the company evidence does not justify the entire increase applied for in PBX and Key equipment, and the Commission finds and concludes that the rates shown for PBX and Key equipment in Appendix "A" are just and reasonable.

12. The Commission has considered the company evidence of wage increases allowed after the test period and finds that for appropriate consideration of said wage increases after the test period it would be necessary for the companies to submit productivity studies to establish whether the wage increases result in increased productivity of company employees, and that the company has not sustained the burden of proving the wage increases after the test period are just and reasonable for this reason.

13. The Commission has considered the increased depreciation rates filed in this proceeding by Central and Lee, and based upon the evidence of Central and Lee and the review and study of said increased depreciated rates by the Commission Staff witness, the Commission concludes that said increased depreciation rates as set forth in Appendix "B" are just and reasonable.

14. The Commission has considered the evidence of the protestants, and the Commission Staff service engineer regarding the adequacy of service provided by Central and

Lee, and the Commission concludes that the grade of service offered by Central and Lee is within the level of service deemed adequate under established standards of telephone service, but the Commission further finds that certain aspects of the telephone service of Central should be improved in accordance with the recommendations of the service investigation conducted in this proceeding, and concludes that the improvements in service should be instituted by the applicant Central as shown in Appendix "C".

15. The Application of Central omits any increases for customers receiving town 4-party service and rural five-party service and multi-party service, on the grounds that such customers are receiving obsolete service offerings and will eventually be upgraded to improved grades of service upon completion of the present service improvement program of Central. Staff witness Chase testified that this treatment omits 23,328 customers from consideration in the rate proceeding and will produce inequities in placing the entire burden of any revenue needs of the company on the remaining customers, and will produce windfall results to the company when the 23,328 customers receiving obsolete grades of service are upgraded to the better grade of service which has received the increase, without taking such increased revenue in consideration in the rate case. For this reason, the Commission finds that it is in the public interest and is just and reasonable and necessary to provide equitable rates for all customers to include increases in the same range of increases applied to other customers, to the present obsolete service offerings, i.e., town four-party, rural five-party and multi-party service; the increases applied are shown in Appendix "A" and will provide an equitable distribution of the necessary increase in revenue to all present customers of Central and Lee, and will, in fact, redound to the ultimate benefit of customers receiving said obsolete service offerings, in that the increases placed on the better grades of service will not be as great in this treatment as they would be in the treatment proposed by Central, and when said customers receiving said obsolete offerings are upgraded to better grades of service at the option of the company, the increased rate will be less than as proposed under the Application of Central.

PRICE COMMISSION

The Utilities Commission takes judicial notice of the President's Executive Order establishing Phase II of wage and price controls under the Economic Stabilization Act of 1970 as amended and the establishment of the Price Commission pursuant to said Order, and the rules and regulations of the Price Commission published in Volume 36, No. 220, Federal Register, December 17, 1971, §300.16, Regulated Utilities, at p. 21,793, as amended in Volume 37, No. 9, Federal Register, January 14, 1972, at p. 652, and Volume 37, No. 54, March 18, 1972, at p. 5701, requiring that regulated public utilities having gross receipts of

$100,000,000 or more give notice to the Price Commission of any price increases authorized by regulatory agencies.

The Utilities Commission is further advertent to public statements of guidelines and policies of the Price Commission. The increase approved here is 16% more on a combined basis than the rates which were fixed for Central in 1954, and for Lee in 1971, and which were in effect during the base period prior to the price freeze on August 14, 1971. The Commission concludes that the North Carolina rate procedure and the evidence in this proceeding, and the consideration thereof by the Commission, fixes the rates of Central and Lee in this proceeding on the basis that they will provide no more than the minimum return necessary to assure continued and adequate service. The return actually earned by Central and Lee from the rates previously in effect produced a rate of return of 7.25% on net investment or 6.61% on the fair value of the plant in service, and if continued without the rate increase approved here, would not be adequate to assure continued and adequate service, and this Commission finds and so certifies that the increases are consistent with the criteria established by the Price Commission, and the documentation for such findings are set out fully in the Findings of Fact and Conclusions herein, based on evidence of record of the public hearings herein.

The most recent rate increase proceeding for Central Telephone Company was 1954. The most recent rate increase proceeding for Lee Telephone Company was 1971, where a prior partial increase granted was reversed on appeal on the issue of adequacy of service and reduced by the Commission on remand. The separate evidence of Lee Telephone Company shows that the return on equity under the present rates of Lee Telephone Company is 4.02% which is inadequate under any criteria for return on equity. The individual station rates of Lee already being higher than exchanges of the same size in Central territory, the consolidation of the two cases for decision at the request of Central and Lee allows the rate increases applicable to Lee alone to remain at a nominal overall increase, to provide a combined rate of return on equity in the proceeding for both companies of 11.5%. Under the criteria provided in Section 300.16 (3) (iv), Central has not had a rate decision since January 1, 1968, and the projected rate of return on common equity capital approved by the Commission in this proceeding is substantially the same as the rate of returns established by the Commission for a similar utility, United Telephone Company, in the most recent decision of the Commission applicable to such similar telephone utility. In Docket No. P-9, Sub 113 on December 10, 1971, the Commission approved a rate of return on equity to United Telephone Company of 11.48%.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the applicants, Central Telephone Company and Lee Telephone Company be, and hereby are, authorized to increase the North Carolina intrastate local exchange telephone rates and charges to produce additional annual gross revenue not exceeding $1,649,954, by applying total increases of $2,090,743, less total decreases of $441,489, based upon stations and operations as of December 31, 1970, as hereinafter set forth in Appendix "A".

2. That the local monthly rates and general exchange tariff item rates prescribed and set forth in Appendix "A" hereto attached, which will produce additional gross revenue of $1,649,954 from said end of test period customers be, and are hereby, approved to be charged by Central and Lee in North Carolina, effective with bills rendered in advance on the next billing date or dates five days following the release of this Order.

3. That Central and Lee shall file necessary revised tariffs reflecting the above increases and decreases, to be effective as of the dates prescribed above.

4. That the reasonable depreciation rates approved for Central and Lee are shown on Appendix "B" attached hereto and shall be the effective rates for Central and Lee.

5. That Central shall take the necessary action to improve service as indicated in Appendix "C" attached to this Order, and that the Commission Staff shall make further periodic reviews and report to the Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 27th day of April, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

NOTE: Portions of Appendix A and all of Appendix C are printed below. For the remainder of Appendix A and all of Appendix B, see the official Order in the Office of the Chief Clerk.

APPENDIX "A"
CENTRAL TELEPHONE COMPANY
DOCKET NO. P-10, SUB 312
LEE TELEPHONE COMPANY
DOCKET NO. P-29, SUB 81

EXCHANGE RATE GROUPINGS

Monthly Flat Rate

Group	Residence				Business			
	Ind.	2-Pty.	4-Pty.	5 & Multi.	Ind.	2-Pty.	4-Pty.	5 & Multi.
1. 0 - 8000	$6.80	$5.85	$5.55	$5.10	$13.60	$11.60	$11.10	$10.10
2. 8001 - 16000	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
3. 16001 - 32000	7.30	6.30	6.05	5.55	14.60	12.60	12.10	11.10
4. 32001 - 64000	7.55	6.55	6.30	5.80	15.10	13.10	12.60	11.60
5. 64001 & up	7.90	6.95	6.65	-	15.80	13.70	13.20	-

RATES BY EXCHANGES

Exchange	Residence				Business			
				Rural				Rural
	Ind.	2-Pty.	4-Pty.	5 & Multi.	Ind.	2-Pty.	4-Pty.	5 & Multi.
Asheboro	$7.05	$6.05	$5.80	$5.30	$14.10	$12.10	$11.60	$10.60
Bethlehem	7.30	6.30	6.05	5.55	14.60	12.60	12.10	11.10
Biscoe	6.80	5.85	5.55	-	13.60	11.60	11.10	-
Boonville	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
Candor	6.80	5.85	5.55	-	13.60	11.60	11.10	-
Catawba	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
Danbury	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Dobson	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60

RATES BY EXCHANGES

Exchange	Residence				Business			
	Ind.	2-Pty.	4-Pty.	Rural 5 & Multi.	Ind.	2-Pty.	4-Pty.	Rural 5 & Multi.
Eden	7.30	6.30	6.05	5.55	14.60	12.60	12.10	11.10
Elkin	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
Granite Falls	7.30	6.30	6.05	-	14.60	12.60	12.10	-
Hays	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
Hickory	7.30	6.30	6.05	-	14.60	12.60	12.10	-
Hildebran	7.30	6.30	6.05	5.55	14.60	12.60	12.10	11.10
Hillsborough	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Madison	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Mocksville	6.80	5.85	-	-	13.60	11.60	-	-
Mount Airy	7.05	6.05	5.80	-	14.10	12.10	11.60	-
Mount Gilead	6.80	5.85	5.55	-	13.60	11.60	11.10	-
Mulberry	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
North Wilkesboro	7.05	6.05	5.80	-	14.10	12.10	11.60	-
Pilot Mt.	7.05	6.05	5.80	-	14.10	12.10	11.60	-
Prospect Hill	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Quaker Gap	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Ramseur	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
Roaring Gap	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Roxboro	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Sandy Ridge	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Seagrove	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
Sherrills Ford	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
State Road	7.05	6.05	5.80	5.30	14.10	12.10	11.60	10.60
Stoneville	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Timberlake	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Troy	6.80	5.85	5.55	-	13.60	11.60	11.10	-

RATES BY EXCHANGES

Exchange	Residence				Business			
	Ind.	2-Pty.	4-Pty.	Rural 5 & Multi.	Ind.	2-Pty.	4-Pty.	Rural 5 & Multi.
Valdese	7.05	6.05	5.80	-	14.10	12.10	11.60	-
Walkertown	7.90	6.95	6.65	-	15.80	13.70	13.20	-
Walnut Cove	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
West End	7.05	6.05	5.80	-	14.10	12.10	11.60	-
West Jefferson	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Yadkinville	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10
Yanceyville	6.80	5.85	5.55	5.10	13.60	11.60	11.10	10.10

ZONE RATE CHARGES

Zone	1-Pty.	2-Pty.
1 (0-1 mile)	$ .60	$ .30
2 (1-3 miles)	2.20	1.10
3 (3-5 miles)	3.80	1.90
4 (5-7 miles)	5.40	2.70
5 (7-9 miles)	7.00	3.50
Each additional zone of 2 miles	1.60	.80

APPENDIX "C"
REQUIRED SERVICE IMPROVEMENT BY CENTRAL TELEPHONE COMPANY

CENTRAL SHALL:

1. Take the necessary action by December 31, 1972, to reduce and maintain the DDD call failure rate to a range of 5% or less.

2. Take action so that by July 1, 1973, 95% of out-of-service trouble reports are consistently cleared within 24 hours and 10% or less of out-of-service trouble reports received before 5:00 P.M. are carried over.

3. Take action to reduce the repeat trouble reports to 10% or less on a consistent basis by July 1, 1973.

4. Take action to balance traffic in originating and terminating central office equipment and to provide intraoffice, local interoffice and toll trunking to meet the current and projected usage requirements during the period for which the additions are being engineered.

DOCKET NO. P-10, SUB 312
DOCKET NO. P-29, SUB 81

WELLS, COMMISSIONER, DISSENTING IN PART AND CONCURRING IN PART. The critical aspect of the majority decision in this case is the rate of return being allowed on common stock (including retained earnings). This is commonly referred to as the return on equity. The evidence on this point in this record consists of testimony and exhibits of the company and the Commission's Staff relating to the actual fiscal experience of the company; and the testimony and exhibits of Dr. Walter Morton, testifying for Central, and Dr. Charles Olson, testifying for the Attorney General, as to the cost of money and the appropriate rates of return.

Both Dr. Morton and Dr. Olson have been recognized by us as experts on capital cost (cost of money) and rate of return, as these areas of expertise relate to public utility financing. The two experts use substantially different approaches to the cost of equity capital and arrive at substantially different results. Dr. Morton relies on the so-called Opportunity Cost Method, while Dr. Olson prefers the so-called Discounted Cash Flow Method. Each method seems to have some merit and offers some information helpful to enable us to reach a reasonably accurate estimate of the cost of equity capital to Central.

Dr. Morton's method, however, is characterized by its assumption that utilities enjoy no competitive advantages in the market for equity capital and that they must compete on even terms with other industrial and business enterprises; that is, the average investor expects the average utility to

earn at the same rate on its equity investment as the average non-utility industry or business earns on its equity investment and that the risk in each type of investment (and hence in each type of business) are substantially the same. This approach has the effect, of course, of placing Central's equity cost in the highest possible range. I cannot accept Dr. Morton's basic approach as reasonable; I perceive his arguments in support of his approach to be specious; and I therefore cannot accept his recommendations as to an appropriate return on equity to be allowed Central in this case.

On the other hand, Dr. Olson's method appears to be basically sound, although it reaches a conservative result. Dr. Olson's method has resulted in a recommended rate of return on equity in a range of 10.0% to 10.65%. Using this equity range, Dr. Olson derived a total cost of capital in a range of 8.24% to 8.53%. I conclude that Dr. Olson's findings and recommendations form the fairest basis for arriving at the proper rates of return in this case. Accordingly, I present the following table, which will illustrate the dollar effects on the ratepayer as the rates of return on common equity vary from 10.0% (Dr. Olson's minimum) to 11.5% (the return allowed by the Commission majority in this Order).

Return on Equity	Additional Annual Revenue Required	Return on Net Investment	Return on Fair Value
10.00%	$ 838,000	7.99%	7.27%
10.50	1,109,000	8.23	7.49
10.75	1,244,000	8.35	7.60
11.00	1,379,000	8.47	7.70
11.50	1,649,500	8.71	7.92

From this evidence, I conclude that the appropriate return on equity should fall between 10.5% and 10.75%, consistent with a fair return of 8.23% to 8.35% on investment. The obvious result of the majority order is that Central's (and Lee's) subscribers will be overcharged from $405,000 to $540,000 per year.

I concur with the Commission's decision to consolidate these two companies (Central and Lee) for the purposes of this order and to make the rates uniform between these two properties of the parent company. This represents significant progress.

Every general rate case decided by this Commission should squarely confront and deal with the issue of quality of service. In this case, we are dealing with a company which appears to have made excellent progress in providing good basic telephone service in its service area, but the record discloses some real trouble spots. For instance, the people from Wilkes County who appeared and testified in this case

will derive scant consolation from the Commission's order. I can only hope that Central will take their problems more to heart than did the Commission. Wherever substantial service problems appear, it is the joint responsibility of the utility and this Commission to see to it that those problems are expeditiously solved. That simple rule should be axiomatic.

Hugh A. Wells, Commissioner

DOCKET NO. P-19, SUB 115

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of General Telephone Company of the Southeast For Adjustment of Rates and Charges for Telephone Service in the Durham and Creedmoor Exchanges	))))	ORDER ON REMAND

BY COMMISSIONERS WOOTEN AND RHYNE: This cause comes on for further consideration by the Commission in accordance with the opinion and judgment of the Supreme Court of North Carolina filed June 16, 1972, reported in 281 NC 318, modifying and affirming the opinion of the North Carolina Court of Appeals filed November 17, 1971, reported in 12 NC App. 598, the judgment of the Supreme Court having been certified by the Court of Appeals to the Commission for further consideration on June 27, 1972.

On July 11, 1972, the Commission entered an Order scheduling a conference for the purpose of affording counsel of record an opportunity to consider and discuss the issues involved in the case on remand and for the further purpose of receiving a Statement of Issues. The conference was held on July 18, 1972, and was attended by all counsel of record. Although counsel were unable to agree to a Statement of Issues, separate statements or proposed findings were filed. Reply of the City of Durham to the brief of General was subsequently filed on July 20, 1972. No further motions, briefs, statements or other filings have been made in this matter.

Upon consideration of the entire record, the evidence and the testimony presented and received during the course of the hearings briefly summarized in the Commission's Order of May 11, 1971, and the opinion and judgment of the Supreme Court of North Carolina filed on June 16, 1972, modifying and affirming the judgment of the Court of Appeals filed on November 17, 1971, we conclude that there is sufficient evidence of record upon which we can and should proceed to a determination of the issues in this cause without further proceedings.

After prolonged, detailed, careful and serious discussions and consideration, the Commissioners were unable to agree

upon a determination of the issues herein and in order to settle the same, Commissioners Wooten and Rhyne make the following

FINDINGS OF FACT

(1) Corporate History. General Telephone Company of the Southeast (General) is a duly franchised public utility providing general telephone service to subscribers in Durham, Creedmoor and Butner, and as a duly created and existing corporation under the laws of this State is properly before the Commission in this proceeding. General's rates and services are regulated by this Commission under the provisions of Chapter 62 of the General Statutes of North Carolina.

(2) Nature of Increase. The increases requested by General would amount to approximately $2,472,554 in additional annual gross revenues to General.

(3) Test Period. All parties to this proceeding utilized as the test period the 12-month period ending March 31, 1970.

(4) Method of Allocation. General presented evidence regarding the method of allocation used by it in determining the portion of its total operations allocable to North Carolina. The Commission Staff reviewed General's methods and procedures and results and presented evidence indicating that the methods produced reasonably accurate results. Accordingly, we find that the method used by General in this docket in separating its interstate and intrastate revenues and expenses reasonably reflects its North Carolina intrastate operations.

(5) Quality of Service. Evidence by way of direct testimony or exhibits was presented in this proceeding by General, the Commission Staff, the protestants and from 51 subscribers of General. Numerous specific levels of service were measured by Commission Staff Witness Clemmons as a result of his investigation. The evidence herein indicates that General has made some improvements in its service to its subscribers in its North Carolina operations since the last rate proceeding in Docket No. P-19, Subs 94 and 95, the present rates herein having been established by the Commission's Order entered December 19, 1968. The areas of improvement reflected on this record are: (a) toll operator answer time; (b) directory assistance answer time; (c) reducing the number of initial trouble reports per 100 stations; (d) the dial equipment service index; (e) reducing subsequent trouble reports and (f) clearing times for trouble reports.

Service indices alone should not be the only consideration in evaluating adequacy of service and consideration should be given to degrees of subscriber satisfaction with the service. An analysis of the subscriber complaints set forth

in the record of this proceeding indicates that a number of the complaints were related to specific measurements by Witness Clemmons such as failure rate on DDD calls, maintenance of public pay stations and directory assistance service, for example. However, subscribers testified that they encountered problems with billing mistakes, discourteous operators, and in contacting a service representative of General and then only by telephone without direct personal contact at General's business office. These difficulties can be regarded as supplemental to the areas measured by Staff Witness Clemmons. Other subscriber complaints testified to involved outages, noise on the line or other transmission difficulties, wrong numbers, disconnection during conversation, and inability to complete calls. Twenty of the fifty-one witnesses expressly indicated their opposition to the proposed rates.

After thorough consideration of the evidence presented in this proceeding, both with respect to the service indices testified to and the testimony of the public witnesses and giving thorough consideration to the opinions of the Supreme Court and the Court of Appeals, we find that the overall quality of service afforded by General to its subscribers is reasonably adequate, but just barely so.

While there has been some improvement in the quality of General's service, there remains a significant need for additional improvements. Additional improvements were found to be necessary in the Commission's Order dated May 11, 1971, and General had been ordered to complete the service improvements on or before July 1, 1972. This requirement is herewith reinstated. The specific service improvements required are:

(1) Reduce failure rate on local interoffice calls to a range of 2%.

(2) Sustain service so the failure rate on intraoffice calls is in the range of 1%.

(3) Provide answer time on repair service calls so that 90% or more are answered within 20 seconds.

(4) Reduce failure rate on DDD calls so that the failure rate on originating DDD calls is less than 5%.

(5) Maintain public pay stations so that 90% or more pay stations are in working condition on a continuing basis.

(6) Provide directory assistance service so that operator answer time will not exceed 10 seconds on more than 15% of the calls.

(7) Reduce total trouble reports per 100 stations so that the total trouble reports per 100 stations per month do not exceed 6 for the North Carolina division.

(8) Provide central office maintenance so that the Dial Equipment Service Index for each central office will be consistently 94 or higher.

(9) Reduce subsequent trouble reports and repeat trouble reports so that the percentage of subsequent reports and repeat reports will be consistently below 10%.

(10) Provide trouble clearing so that on a continuing basis at least 95% of all reported troubles during a month are cleared within 24 hours from the time the trouble is reported to the company.

(11) Provide service installation so that on a continuing basis at least 90% of all regular service installations are worked within 5 days and service orders not worked by the due date and missed for company reasons shall be consistently in the range of 5% or less.

In addition to these requirements, we further find that General should immediately proceed to eliminate the use of telephones within its business offices for service complaints so that when subscribers go to the company offices to report difficulties, their complaints will be handled on a face-to-face basis with a service representative of General.

(6) Plant Investment. No original cost study figures were presented. The plant investment used both in General's presentation and the Staff's presentation are book figures. They represent original cost only to the extent General's books have been kept in a generally uniform manner based on actual cost. The records of the Commission indicate that this has been done since 1962, at which time the establishment of continuing property records was completed so as to permit reasonable verification (Docket No. P-19, Subs 94 and 95). The evidence of this proceeding indicates no substantial variation in General's bookkeeping procedures. Accordingly, for the purpose of this case, adjusted book cost figures reasonably represent original cost figures except as hereinafter indicated. We find that the reasonable original cost of General's North Carolina intrastate utility property is approximately $30,981,557. The principal adjustments giving rise to this figure are as follows:

(a) Elimination of $747,264 in connection with the Durham-Creedmoor-Butner EAS plant under construction which was scheduled to be in service on March 31, 1971, said adjustment being upheld by the Supreme Court and the Court of Appeals. The Commission finds that this property was not used and useful within the meaning of G.S. 62-133 during the test period.

(b) Elimination of $690,340 representing one-half of the amount testified to by Commission Witness Clemmons with

respect to excess plant margin in central office equipment. In determining whether the properties of General can be deemed to be used and useful in rendering the service it afforded as of the end of the test period, we find that General's utility plant was overbuilt and could not be considered used and useful to the extent of this adjustment because present rate payers should not be required to pay excessive rates for service to provide a return on property which will not be needed in providing utility service within the reasonable future. Witness Clemmons' recommendation is reduced by one-half because, according to his testimony, some portions of the equipment considered by him to have been excess margin during the test period will be utilized in the service improvement and regrade program of General. This deduction was upheld by the Supreme Court.

(c) Addition of $978,000 which had been deducted by the Commission in its prior order relating to excess profits which the Commission had found attributable to General's dealings with its major supplier, Automatic Electric Company. The Supreme Court held in its opinion that there was no evidence in this record to support such adjustment as had been made by the Commission. Accordingly, pursuant to the directive of the Supreme Court this amount must be added to the former figure of General's net investment because of the prior deduction. We do not herein find that prices paid by General to Automatic Electric Company are reasonable. However, we find upon this record and in light of the opinion of the Supreme Court an absence of such evidence as would indicate that such prices are reasonable. We view the Supreme Court's determination of error on this point to be based upon error in methodology rather than principle. The Court noted that when the transaction is called in question, the burden is upon the utility to show that the price it paid was reasonable. We do not find that General has sustained its burden of proof in this case. However, we are constrained to make no adjustment upon this record in view of the Supreme Court's opinion.

(7) Estimated Revenue and Expenses under Present Rates. General's revenue under its present rates on an annualized basis for its customers served as of the end of the test period for its North Carolina intrastate operations is approximately $9,011,448. Its reasonable operating expenses for the test period amount to approximately $4,130,999. The ratio of net income under the present rates as applied to net investment in telephone plant found hereinabove is 5.56% with General's net operating income for return as of the end of the test period amounting to $1,729,517, which we deem insufficient considering General's current operating conditions.

(8) Organization of Engineering and Plant Functions. General's present organization of engineering and plant functions established in late 1969 will retard rising plant investment cost and maintenance expenses and investment per station it contends will be experienced by it. Based upon

the Commission's Staff study, we find that General's present engineering and design techniques and standards are efficient and economical. Consideration will be given hereinafter in arriving at the rate of return for General's failure to properly plan, design and maintain its telephone plant for the years 1957 through 1969 reflected in the evidence of the Commission Staff.

(9) Principal Accounting and Pro Forma Adjustments. Listed below are the principal accounting and pro forma adjustments we find necessary to reflect the normal and proper adjusted net income and return data for the test period ended March 31, 1970, adjusted by the intrastate separation factors:

Operating Revenues:

(a) Operating toll revenues through a series of accounting and pro forma adjustments were decreased a net of $70,401 in order to properly reflect for the test period the toll revenues resulting from changes in toll settlements with the Bell Company from the memorandum of agreement between the American Telephone and Telegraph Company and USITA released under date of July 15, 1970.

(b) Miscellaneous revenues were increased $141,377 with an offsetting increase in operating expenses. This adjustment corrects company accounting error in handling of revenues and expenses associated with the sales of ads and agents' commissions in connection with its Directory Advertising Sales. The net effect of this adjustment on rate of return is zero.

(c) The provision for uncollectible accounts was reduced by $82,198 to reflect actual write-offs during the test year.

Operating Expenses:

(a) Wage adjustment - expenses were increased $196,810 to reflect the annualization of a general salary and wage increase and related payroll costs which became effective December 7, 1969, and February 22, 1970, and other dates during the test period.

(b) Depreciation expense was increased $208,165 to reflect allowance for depreciation on end-of-period ($151,971) depreciable plant and to reflect depreciation expense based on Commission approved depreciation rates ($56,194).

(c) Taxes - Gross receipts, property and payroll taxes were decreased a total of $24,133 to reflect adjustments in tax accruals, revenues, and salary adjustments for the test period.

(d) Taxes - Income (State and Federal) were decreased $242,695 to reflect income tax effect of accounting and pro forma adjustments to operating revenues and expenses.

Investment in Telephone Plant:

(a) Telephone plant in service was decreased by $690,340 to reflect excess plant margin in central office equipment.

(b) Depreciation reserve was increased by $181,777 to reflect adjustments made in the depreciation expense accounts and the excess plant margin adjustment.

Allowance for Working Capital:

Materials and supplies, a component of the allowance for working capital, was reduced by $219,491 on a total North Carolina basis and by $178,512 for North Carolina intrastate operations to eliminate major items of reusable salvage central office and PABX equipment not required for the North Carolina intrastate operations.

(10) Capital Structure. General's capital structure allocated to North Carolina based upon the test period was 60.96% debt, 2.30% cumulative preferred and 36.74% common equity. Upon this record, we deem such capital structure to be appropriate and reasonably balanced as to its components, except as hereinafter adjusted to include fair value increment.

(11) Evidence of Replacement Cost. Before entering upon a discussion of the fair value of General's properties, it is incumbent upon the Commission in light of the opinion of the Supreme Court and the Court of Appeals to consider, inter alia, the replacement cost of General's property inasmuch as the company offered testimony regarding replacement cost. G.S. 62-133(b)(1) provides, in part, that replacement cost may be determined by trending such reasonable depreciated cost to current cost levels, or by any other reasonable method. We interpret G.S. 62-133(b)(1) to mean that "replacement cost" (or "reproduction cost new") envisions the reconstruction of utility plant in accordance with modern design and techniques and with the most up to date changes in the state of the art of telephony. On the other hand, "reproduction cost" (or trended original cost as presented by Witness McGrath) is founded upon the premise that, if destroyed, the plant would be rebuilt with inefficiencies and outmoded obsolete design included. Consequently, replacement cost envisions a higher level of evidence than reproduction cost. Accordingly, if the "trended original cost" study of the company in this proceeding is to be accepted, it must be based upon reasonable methodology in order to be some evidence of replacement cost.

The trended original cost study by Witness McGrath for General has several deficiencies which make it unacceptable

as a reasonable basis and method for determining replacement cost. Mr. McGrath's testimony refers to a trended book cost and net trended book cost study. The approach taken by this witness is to trend undepreciated vintage dollars of plant investment surviving on General's books at the end of the test period, March 31, 1970. These surviving vintage dollars were estimated by Mr. McGrath as to year of placement. Mr. McGrath selected survivor curves in at least eleven (11) subaccounts to estimate the dollars of surviving plant by year. Mr. McGrath then trended such estimated vintage dollars by applying estimated material and labor indices. These indices were weighted together by using an estimated ratio of labor and material. This ratio is further assumed to apply over the entire life span of the surviving plant which is as much as 50 years. Finally after arriving at his estimated vintage dollars, estimated labor and material weighting and estimated trending indices, Mr. McGrath does not trend the depreciated original cost of the plant but actually trends the undepreciated book value.

Mr. McGrath then testified that he determined by sample physical field inspections a percent allowance for age and condition and did not consider the actual accrued depreciation on General's books. This percent allowance for age and condition was then multiplied by trended book cost to produce what Mr. McGrath called the net trended book cost. The resulting net trended book cost is higher than would have resulted had Mr. McGrath considered the depreciation expense actually recovered by General.

Mr. McGrath does not make any allowance in his trending of original book cost for inefficiency or excess margins which existed in the engineering and construction of plant, nor does his trending make allowance for existing plant deficiencies or reflect any improvements in the art of telephony which have occurred since original placement of the plant which in several accounts covers periods of over 30 years.

We find that Mr. McGrath's methods and results are unreasonable, in that: the methods employed do not include an appropriate depreciation reserve ratio; the methods employed are based to a significant extent on estimates and assumptions in arriving at the surviving dollars by year of placement before any trending factors are applied; the methods employed use various estimates and assumptions in arriving at trending factors to be applied against the estimated surviving dollars; the methods employed make no allowance for improper engineering or excess plant margins; the methods employed make no allowance for plant service deficiencies; and further, the methods employed do not reflect any of the advancements in the art of telephone engineering and construction which have occurred during the last thirty years. For the reasons hereinabove stated, we, therefore, find upon this record that General has not presented reasonable and sufficient evidence of replacement cost.

(12) Fair Value. We are required by G.S. 62-133(b)(1) to ascertain the fair value of General's utility property used and useful in providing the service it renders to its subscribers within North Carolina. In light of that statute and the opinions of the Supreme Court and the Court of Appeals, we are advertent to our duty and responsibility to consider and weigh the reasonable original cost of General's property as well as any reasonable evidence of replacement cost presented. Having made a specific finding of original cost depreciated and having found on this record that there is not sufficient and reasonable evidence of replacement cost as contemplated by G.S. 62-133, we find that the fair value of General's properties used and useful in rendering the service it provides is approximately $31,911,004. In reaching this determination, we have considered the following:

(a) Reconsideration of the $978,000 adjustment relating to General's relationship with Automatic Electric Company, which said adjustment was found to have been error by the Supreme Court;

(b) General's high cost of plant in service per station for a system with the highest station density (181 stations per square mile) in the State indicates that prior to reorganization in late 1969 proper efficiencies and economies in engineering and plant functions were not being obtained;

(c) That from November 1967 to March 1970, General added $20,000,000 in gross plant additions, 81.27% or $16,254,000, which was attributed to North Carolina.

(d) Studies of plant investment per station for the year 1957 to 1969 indicate that the failure of General to properly plan, design and maintain its telephone plant forced crash programs in 1967, 1968, 1969 when costs were high; and

(e) Consideration of the excess plant margin found to exist with respect to General's operations when related to the test period as affecting the "reasonable" original cost of its property.

(13) Rate of Return. We are required by G.S. 62-133(b)(4) to establish such rate of return on the fair value of General's property as will enable it by sound management (1) to produce a fair profit to its stockholders, in view of current economic conditions; (2) maintain its facilities and services in accordance with the reasonable requirements of the customers in its territory and (3) compete in the market for capital funds on terms which are reasonable and which are fair to its customers and its existing stockholders.

General's Witness Meyer testified to his study based upon the "comparable earnings test" and his conclusion that a

reasonable return to General on the equity component of its capital structure should be between 11.5% and 13.5% (using 42.15% common equity). Analyzing General's capital structure, he derived a composite cost of the bonded debt component of 6.73%. Although labeled "comparable" utilities, his testimony and exhibits relate to telephone and electric companies whose comparability to General is questionable. General's evidence of comparability does not merit full weight because of questionable comparability in the recommendations by Witness Meyer in his testimony purporting to establish a need for a level of earnings for General. In the attraction of capital, certainly General's position as a subsidiary of General Telephone & Electronics to some extent minimizes the risk element. General's Witness Redman testified that General's construction program requires the attraction of a substantial amount of capital. He testified that to secure long-term debt capital for such construction General must have earnings after taxes equal to two times its interest charges.

Protestant City of Durham's Witness Olson, using a "cost of capital" or "opportunity cost" approach based his computation of a fair return on the equity component of General's capital structure upon a study of the ratios of earnings per share to the market price per share of companies deemed by him comparable to General. He concluded that a return of 9.8% on General's equity component would be sufficient to attract equity capital to General and thereby, would be a fair return on its equity component. As observed by the Supreme Court in its opinion, neither Witnesses Meyer nor Olson took into account any addition to General's equity component by reason of the unrealized paper profit inherent in the fair value of its properties found to be in excess of the original cost less depreciation.

Giving consideration to the "sound management" aspect of G.S. 62-133(b)(4), the Commission in arriving at a fair rate of return has considered the evidence of record which indicates that (a) General's high cost of plant in service per station for a system with the highest station density (181 stations per square mile) in the State indicates that prior to the reorganization in late 1969 proper efficiencies and economies in engineering and plant functions were not being obtained; (b) studies of plant per station for the years 1957 through 1969 indicate that the failure of General's management to properly plan, design and maintain telephone plant forced crash programs in 1967, 1968 and 1969, when costs were substantially higher.

Considering economic conditions as they exist, we find that under existing rates the return on common equity adjusted for the fair value increment of 3.16% is insufficient to compete in the market for capital funds on terms which are reasonable and fair to the customers and existing investors or to permit General to maintain its facilities and services.

Giving consideration to the entire record, we find that the rate of return deemed necessary on the fair value of General's property devoted to intrastate service under sound management to produce a fair profit to its stockholders, considering economic conditions as they exist, and permitting General to maintain its facilities and services in accordance with its customer requirements and to compete in the market for capital funds on reasonable terms which are fair to its customers and existing investors, is 7.53%. For the reasons hereinabove set forth, we have found the equity return on this record to be lower than that recommended by Dr. Olson, Witness for the City of Durham.

(14) Approved Rates and Revenue Requirements. Having determined the rate of return necessary on the fair value of General's property and having determined the fair value of General's property, we must now turn to the revenue requirements and the rates to be fixed as will permit General an opportunity to earn such return. The rate of return of 7.53% will require additional annual revenues to General of approximately $1,466,000, based upon the test period utilized in this proceeding, after adjustments to revenues and expenses based on the plant and equipment in operation at the end of the test period. This amount is a 16.3% increase over General's present operating revenues. The increases applied for by General in excess of the above amount found to be reasonable are deemed to be unjust and unreasonable by these Commissioners. Accordingly, General shall be permitted to charge only such rates as are set forth in Appendix A attached hereto as those rates which have been found to be just and reasonable under all facts of record.

(15) Summary and Recapitulation. The following tables based upon the findings of fact herein reflect the basis for the increases in additional annual revenues to General found to be just and reasonable from the record of this proceeding:

GENERAL TELEPHONE COMPANY OF THE SOUTHEAST
GENERAL RATE CASE
DOCKET NO. P-19, SUB 115
FINANCIAL AND OPERATING DATA
TEST PERIOD ENDED MARCH 31, 1970

	Present Rates	Rate Increase and Court Order Adjustments	After Increase In Rates and Adjustments
Column #	(A)	(B)	(C)
Operating revenues	$ 9,011,448	$1,465,801	$10,477,249
Operating expenses	4,130,999		4,130,999
Depreciation	1,845,301		1,845,301
Taxes-other than income	1,061,254	87,948	1,149,202
Taxes - state income	40,203	82,671	122,874
Taxes - Federal income	194,458	621,687	816,145
Investment tax credit-Net	92,347		92,347
Total operating expenses	7,364,562	792,306	8,156,868
Net operating income	1,646,886	673,495	2,320,381
Add: Annualizing factor (5.01%)	82,631		82,631
Net operating income for return	1,729,517		2,403,012
Investment in telephone plant in service	37,246,338		37,246,338
Less: Depreciation reserve	6,724,475		6,724,475
Net telephone plant in service	30,521,863		30,521,863
Add: Adjustment for A&E excess profits	978,000	(978,000)	
Adjusted net telephone plant in service	29,543,863		30,521,863
Working capital allowance (W/C) materials and supplies	493,694		493,694
Cash (1 month of operating expenses)	360,139		360,139
Less: Federal income tax accruals	(290,525)	(103,614)	(394,139)
Total working capital allowance	563,308		459,694
Net investment plus W/C allowance	31,085,171		30,981,557
Rate of return on net investment	5.56%		7.76%
Fair value			31,911,004
Rate of return on fair value			7.53%

GENERAL TELEPHONE COMPANY OF THE SOUTHEAST
DOCKET NO. P-19, SUB 115
ACTUAL CAPITAL STRUCTURE - MARCH 31, 1970
COMMON EQUITY ADJUSTED FOR FAIR VALUE INCREMENT
NORTH CAROLINA INTRASTATE OPERATIONS

	Amount	Percent	Interest or Return Amount	Rate
Long-term debt	$12,204,731	36.35	$ 686,462	5.62%
Short-term debt	7,697,615	22.92	658,344	8.55
Total debt	19,902,346	59.27	1,344,806	
Preferred stock	749,407	2.23	34,773	4.64
Common equity	12,927,224	38.50	1,082,322	8.37
Total	$33,578,977	100.00	$2,461,901	

Return on Common Equity

Item	Amount
Net operating income	$ 2,403,012
Other income (net) *	58,889
Total income available for fixed charges	2,461,901
Less: Fixed charges	1,344,806
Preferred dividends	34,773
Income available for common equity	1,082,322
Common equity	12,927,224
Rates of return on common equity	8.37%

* Includes $16,761 interest on customer deposits

(16) Price Commission. The criteria and policies of the Price Commission under the Economic Stabilization Act of 1970 have been incorporated into the Commission's Rules and Regulations in Chapter 13, and the Commission has been certified by the Price Commission effective July 13, 1972. The criteria and policies set forth therein have been considered by the Commission and we find under Rule 13-2 that there is sufficient information included in the record herein regarding compliance and we, therefore, find as follows:

(a) The increases authorized herein are cost justified and do not reflect future inflationary expectations. Each of the expenses found reasonable in this proceeding is an actual expense in effect at the time of the hearing and none are based on predictions of any future increases in inflation.

(b) The increases are the minimum required to assure continued, adequate and safe service and to provide the necessary expansion to meet future requirements. General's construction program requires substantial amounts of additional capital to be raised and without the increases approved here, we have found that General could not compete in the capital market for necessary funds for such improvement in accordance with G.S. 62-133.

(c) The increases will achieve the minimum rate of return needed to attract capital at reasonable costs and not to impair the credit of General. The record is clear and the Commission has found that the 8.37% rate of return on common equity is essential to General under present economic conditions.

(d) The increases do not reflect labor costs in excess of those allowed by policies of the Price Commission, which currently is 5.5%.

(e) The increases take into account expected and obtainable productivity gains as determined under Price Commission policies by means of setting them off against contracted wage increases, in that the Order does not allow for any increases in wages after the hearings held herein and the future wage increases in the annual wage contract, but not allowed as expenses for the test period, will absorb estimated productivity gains. The method utilized by the Commission in this hearing of a firm test period, with no adjustment for future increases and expenses and adjusting only for known changes in expenses and revenues, has, in effect, measured the productivity gains which have been achieved by General in the test period fixed in this proceeding.

(f) The procedures of the Utilities Commission provided for reasonable opportunity to participate by all interested persons or their representatives in this proceeding, and the using and consuming public was represented by the Attorney General, and due public notice was given of the hearing, and all parties requested to be heard either as formal parties of record or through presentation of public statements were admitted to the proceeding.

Based upon the foregoing Findings of Fact, Commissioners Wooten and Rhyne make the following

CONCLUSIONS

We conclude that the rate of return on the fair value of General's properties of 7.53% will result in approximately $1,466,000 in additional annual gross revenues to the company being approximately 59.2% of the increases originally requested by General.

The total increases applied for by General are not supported by this record and would produce a return greater than that which could be deemed just and reasonable. The rates proposed by General are concluded to be unjust and unreasonable to the extent that they produce any increases in additional annual revenue to the company based upon the end of the test period in excess of approximately $1,466,000. We conclude that General has not carried the burden of proving that the entire increases requested by it are just and reasonable. The rates concluded to be just and reasonable approved by this Order are attached hereto as

Appendix A in connection with the classifications of service afforded by General.

Inasmuch as this case is on remand from the Supreme Court and the Court of Appeals for further consideration, we have endeavored after thorough analysis of such opinions to implement in each and every particular the requirements of the reviewing Courts with respect to this proceeding. The implementation of the Courts' full directives are set forth in the Findings of Fact hereinabove.

We conclude that the overall quality of service afforded by General is reasonably adequate, but just barely so. Accordingly, we have made no adjustment in establishing rates in this proceeding. We, however, are not unmindful of our responsibilities under the evidence of record herein which reveals that there are some difficulties with service by General in its franchised area. Giving consideration to the testimony of public witnesses and other parties to this proceeding, we have required specific service improvements and will monitor compliance with those requirements in the pending rate application of General in Docket No. P-19, Subs 133 and 136. The service improvements required by this Order are regarded as independent of other requirements by the Commission which relate to service in prior Orders and particularly, improvement by General of its subscriber service to one-party individual service by December 31, 1973.

In connection with this rate proceeding, General as reflected in Witness Wahlen's testimony, has requested that the Commission authorize it (1) to establish certain rate groups, (2) to set up an arrangement for the orderly progression of exchanges into appropriate rate groups as the calling scope of the exchange either increases or decreases, (3) To eliminate all zone charges for all grades of primary service within the exchange areas prior to completion of its schedule service improvement program sanctioned by the Commission, and eliminating the zone charges at that time as previously ordered by the Commission, (4) to package private branch exchange services, (5) to convert all remaining mileages, such as extensions and local private lines, to airline measurement instead of circuit measurement, (6) to begin charging for rotary service provided primarily to businesses. As reflected in Appendix A attached to this Order, being the schedule of rates found to be just and reasonable and approved by this Commission in regard to the classification of subscribers served by General, items 1 and 2 above are disapproved and Requests 3, 4 and 5 are approved. The amount which General requested be charged for Item 6, rotary service, there being no charge previously, should be reduced as reflected in Appendix A.

Upon remand of this matter by the Supreme Court, the four remaining members of this Commission who heard and initially determined the same, endeavored to redetermine the issues in the light of the Court's opinion, but found themselves

hopelessly deadlocked, with serious differences of opinion regarding the evidence in this record and the appropriate weight to be given the same. In a sincere effort to resolve the issues herein, we have concluded it to be appropriate to sign this Order.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That the application in this docket be, and the same hereby is, approved insofar as it is consistent with the provisions of this Order and is disapproved in all other respects.

(2) That General Telephone Company of the Southeast be, and the same hereby is, authorized to file and make effective on all bills rendered after December 1, 1972, its tariffs containing rates and charges in accordance with the rates and charges contained in Appendix A attached hereto and incorporated herein, but only after revised tariffs have been filed.

(3) That General Telephone Company of the Southeast be, and the same hereby is, required to comply with the specific service improvement requirements specified on pages 482 and 483 of this Order. [See pages 63 and 64 in this Annual Report.]

ISSUED BY COMMISSIONERS WOOTEN AND RHYNE.

Marvin R. Wooten, Chairman
Miles H. Rhyne, Commissioner

CONCURRING IN RESULT ONLY. (See attached Opinion)

Hugh A. Wells, Commissioner

DISSENTING IN PART AND CONCURRING IN PART. (See attached Opinion)

John W. McDevitt, Commissioner

ISSUED AS A MAJORITY ORDER OF THE COMMISSION.

This 14th day of November, 1972.

Katherine M. Peele, Chief Clerk

(SEAL)

"APPENDIX A"
GENERAL TELEPHONE COMPANY OF THE SOUTHEAST
STATE OF NORTH CAROLINA
DOCKET NO. P-19, SUB 115

LOCAL EXCHANGE SERVICE RATES
DURHAM & CREEDMOOR EXCHANGES

BUSINESS SERVICE

One-Party	$20.00
Private Branch Exchange Trunk	35.00
Semi-Public	30.00
Two-Party	18.50
Four-Party	17.00
Multi-Party	15.50
Extension	2.50
Private Branch Exchange Extension:	
Commercial	2.50
Converted to Main PBX Stations	#
Hotel-Motel	2.25
Converted to Main PBX Stations	#

RESIDENCE SERVICE

One-Party	$ 7.35
Two-Party	6.50
Four-Party	5.85
Multi-Party	5.10
Extension	1.25

NOTE: For the remainder of Appendix A, see official Order in the Office of the Chief Clerk.

DOCKET NO. P-19, SUB 115

WELLS, COMMISSIONER, CONCURRING IN PART AND DISSENTING IN PART: The original Order in this docket was promulgated by a three-Commission majority consisting of Commissioners Westcott, Wooten, and Rhyne, over the dissents of Commissioners McDevitt and Wells. Mr. Westcott has since retired and the Commission is now constituted of the four remaining Commissioners who participated in the original hearing and Order.

None of the remaining Commissioners have substantially changed their positions on the basic issues in the case. Certainly I have not. The Commission thus now being evenly at odds on the issues in the case, we are squarely confronted with a procedural law dilemma, which I will attempt to describe.

Under the provisions of G.S. 62-134(b), the Commission may not suspend a requested rate for more than 270 days, and if the Commission has not entered an Order within said period of suspension, the utility may place the requested rate into effect at the end of the 270-day period. General's

application in this docket was filed on July 14, 1970, and it is therefore clear that the 270-day limitation has long since run in relation to that date.

Assuming, arguendo, that the July 14, 1970, date is controlling, it would appear that absent a majority Order in this docket setting lower or lesser rates than those requested, General would be free at any time it may choose to put the full requested rates into effect.

This leaves me in the position of not agreeing with the instant Order, but voting for it in order to avoid the risk associated with non-action on our part. I have considered the alternatives (discussed below) and find them unsatisfactory in the sense that there seems to be no clear-cut answer.

Alternative One would be to assume that under the provisions of G.S. 62-134(c), wherein the burden of proof to support a requested rate change is placed upon the utility seeking it, it could be argued that until a majority of the Commission has found that burden to have been met, the requested rate must fail, and that even if there be no majority Order, if there be an Order at all (signed or entered by one or more Commissioners), the requirements of G.S. 62-134(b) have been met and the suspended rate would not therefore go into effect.

Alternative Two would be to assume that upon remand to the Commission following a reversal by the Supreme Court, the date of remand then becomes the effective "filing" date of the requested rate and that the 270 days would then begin to run again from the date of remand. Under this alternative additional time would be gained, but unless one or more of the Commissioners changed his position, it would not solve the issue and simply postpone the effective date of the requested rate increase.

Alternative Three would be to assume that under the Federal Price Commission rules and regulations, considered in the context of this Commission's agency relationship wherein we are now certified to act on behalf of the Price Commission, no increased rates may be placed in effect without positive certification by us, which, of course, could not be accomplished without majority action.

Having stated these alternatives as the only ones appearing to me, and having reached the decision that none of them can be relied upon to prevent the implementation of the full requested increase in this docket, I therefore concur in this Order for these reasons only, it being my position that the causes for my original dissent have not been cured and still constitute a valid basis to deny General any requested increase.

For me to repeat or review my original dissent would be unproductive, especially in view of the fact that General

has a pending (new) application before us for a rate increase which we have declared to be a general rate case, to receive full rate-of-return and service audit and investigation. In view of the fact, however, that not only in General's pending case, but in many other general rate cases before us, these self-same questions of law and procedure may again become critical and determinative of the case, I would hope for prompt clarification from the courts of the issues I have alluded to herein.

Hugh A. Wells, Commissioner

DOCKET NO. P-19, SUB 115

McDEVITT, COMMISSIONER, DISSENTING IN PART AND CONCURRING IN PART. I concur with those provisions of the order issued by Commissioners Wooten and Rhyne which modify the original order to meet the requirements of the Supreme Court by restoring to the rate base $978,000; the finding that there is insufficient evidence in the record to determine replacement cost; finding that the fair value of plant used and useful in providing service of $3,911,004 is reasonable and that the rate of return on the fair value rate base should not be higher than 7.53% for the Company under the circumstances.

I disagree with the majority order and dissent from the finding that "service is adequate but barely so." The evidence presented by the Commission Staff and corroborated by public witnesses, shows that the quality of telephone service provided by General Telephone Company of the Southeast in the Durham and Creedmoor exchanges was not at an acceptable level at the time of the hearing. The majority order fixed rates calculated to provide a return to General as if telephone service were at an acceptable level. In my judgment a substantial part of the additional revenues which were allowed by the majority order should have been withheld because of the inadequate service.

The majority action which gave the Company until July 1, 1972, to correct its service deficiencies while it enjoyed rates calculated to provide a fair return on investment was not justified in light of the performance of the Company. Four years have elapsed since the 1968 rate and service hearing in which General Telephone's rates were increased and it was ordered to make extensive improvements based upon findings of seriously inadequate service. The Company had ample time within which to have taken the required action for it to now have fully adequate telephone service. Some improvements have been made, but service was still inadequate at the time of the hearing; yet rate increase was granted as if service were adequate and the Company was given another year to accomplish what was long overdue.

General Telephone's parent and owner, General Telephone and Electronics Corporation, is the largest independent telephone company in the United States having resources

which make it inexcusable to have inadequate and deficient telephone service after fourteen years of ownership including the period since the 1968 hearing in which inadequate service was established. Furthermore, the record shows that General Telephone did relatively little to develop the telephone system from the date of acquisition in 1957 until the year 1966. As a result, plant investment and maintenance expenses per station have risen dramatically in recent years during the period of higher labor and material cost while the Company made abnormally large investments to overcome plant deficiencies attributable to the lack of orderly planning and development which would have spread the cost of development over a longer period and permitted more efficient application of capital. The result is that the public is now faced with higher telephone rates than would otherwise be necessary.

I disagree with the majority action allowing only 50% of the recommended Staff adjustment of $1,380,000 for excessive central office equipment and trunks. The Supreme Court decision upheld the Commission's finding of excess margin and the Court's decision imposed no restriction on an adjustment for the full amount testified to by the Staff. In arriving at its $1,380,000 adjustment, the Staff first allowed for sufficient plant margin to cover a reasonable engineering period of 2-1/2 years and then determined the cost of excess central office equipment and trunks beyond that period. The majority states that its adjustment of $690,340 was made "because a portion of equipment considered to be excess margin during the test period will be utilized in service improvement program of the Applicant in the immediate future." The language, "will be utilized ... in the immediate future," is vague and indefinite in contrast to the Staff evidence which is definitive and reasonable and in the absence of facts to the contrary constitutes the logical basis for the full adjustment of $1,380,000. Approval of excessive plant margin encourages unjustifiable inflation of the rate base and wasteful use of resources. The impact on the ratepayer is that it distorts the relationship between investment and revenues making it appear that the Company is earning less on its investment than is actually the case. The plant found by the Staff to represent excessive margin should properly have been excluded from the rate base, or in the alternative, total revenues should have been adjusted upward to reflect future earnings of the excess plant as it becomes used and useful.

I dissent from those provisions of the majority order allowing additional gross revenues of $1,465,801 and increased rates and charges which are excessive in light of the substantial service inadequacies clearly documented in the record, and which fail to eliminate from plant investment and the rate base $1,380,000 in excess central office equipment and trunks.

John W. McDevitt, Commissioner

November 14, 1972.

DOCKET NO. P-19, SUB 133

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Petition of General Telephone Company of the Southeast for an Increase of Non-recurring Charges for Installations, Changes, Moves and Reconnects by Telephone Companies Operating Within the State of North Carolina	ORDER CLOSING DOCKET

BY THE COMMISSION: General Telephone Company of the Southeast, hereinafter called Company, filed with the Commission on September 10, 1971, a Petition and tariffs requesting an increase for non-recurring charges for installations, changes, moves and reconnects by telephone companies operating within the State of North Carolina. The tariffs filed related only to General Telephone Company of the Southeast and did not carry an effective date.

The Commission being of the opinion that the Company's tariff, as filed in this docket, should be suspended, suspended the same pending the outcome of a general investigation of non-recurring charges for installations, changes, moves and reconnects by telephone companies operating within the State of North Carolina which the Commission had undertaken in Docket No. P-100, Sub 27 on its own motion.

The Commission taking judicial notice of its Order dated February 18, 1972, in Docket No. P-100, Sub 27 and being of the opinion that this matter should be dismissed and this docket closed;

IT IS, THEREFORE, ORDERED:

That the Petition in this case be, and it is, hereby dismissed and this docket closed.

ISSUED BY ORDER OF THE COMMISSION.

This the 24th day of February, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-19, SUB 136
(DOCKET NO. P-19, SUB 133)

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application of General Telephone	)	ORDER REOPENING DOCKET
Company of the Southeast for	)	NO. P-19, SUB 133 AND
Authority to increase its rates	)	CONSOLIDATING SAID
and charges in its service area	)	DOCKET WITH GENERAL
within North Carolina	)	RATE APPLICATION

BY THE COMMISSION: On February 29, 1972, General Telephone Company of the Southeast (General) filed a Motion for Reconsideration in Docket No. P-19, Sub 133 and a further Motion to Consolidate said Docket with Docket No. P-19, Sub 136; the latter docket being a general rate application of the company pending before the Commission.

On February 24, 1972, in Docket No. P-19, Sub 133 the Commission entered an order closing said docket, which involved petition by General for increases in non-recurring charges for installations, changes, moves and reconnects. The Commission stated in the order that it was of the opinion that the docket should be closed because of the disposition in Docket No. P-100, Sub 27 relating to a general investigation of all such charges for all telephone companies.

The Commission has considered the Motion for Reconsideration filed by General and is of the opinion that Docket No. P-19, Sub 133 should be reopened for the purpose of consolidating said docket with the general rate application of the company in Docket No. P-19, Sub 136 for consideration of any evidence which may be presented by General in that proceeding with respect to the justness and reasonableness of allowing increases in non-recurring charges.

Inasmuch as the Commission's Order of November 30, 1971 required publication of Notice by General of the general rate application by February 14, 1972, the Commission is further of the opinion that General should publish at its expense the additional Notice attached hereto as Exhibit "A" pursuant to the requirements of this Order hereinbelow stated.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That the application of General in Docket No. P-19, Sub 133 be, and the same hereby is, reopened for the purpose of consolidating General's application for increases in non-recurring charges with its general rate application.

(2) That the application for increases in non-recurring charges be, and the same hereby is, consolidated with the

Company's general rate application in Docket No. P-19, Sub 136.

(3) That inasmuch as the consolidated proceeding is a general rate application, General shall comply with G.S. 62-133 and Rules R1-17 and R1-26 of the Commission's Rules and Regulations.

(4) That General shall have the burden of proof in establishing the justness and reasonableness of any increase in non-recurring charges as a part of and in the general rate proceeding itself without utilizing any prior evidentiary presentation.

(5) That General shall, at its expense, not later than March 31, 1972 publish once in a newspaper having general coverage of the areas for which the proposed rates are applicable, the Notice of Hearing attached hereto as Exhibit "A" and said Notice shall cover no less than one sixth (1/6) of a page.

(6) That General shall not later than March 31, 1972 mail as a bill insert or by separate mailing to each of its subscribers the Notice of Hearing attached hereto as Exhibit "A".

(7) That the proposed increases in non-recurring charges are hereby suspended and General's present rates in connection therewith shall remain in effect until further Order of the Commission.

(8) That the application for increases in non-recurring charges shall be subject to the public hearing heretofore scheduled on April 18th and April 25th, 1972.

(9) That General shall file testimony and exhibits in support of its application for increases of non-recurring charges not later than March 31, 1972 in such a manner as to reflect the relationship of such proposed increases to the test period heretofore established in the general rate proceeding, being the twelve (12) months ending May 31, 1971.

(10) That protestants or other parties having an interest in this matter shall file protests or Petition for Intervention in accordance with Rule R1-6, R1-17 and R1-19 of the Commission's Rules and Regulations.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of March, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Commissioner Wells dissents to this Order.

DOCKET NO. P-19, SUB 136
DOCKET NO. P-19, SUB 133

McDEVITT, COMMISSIONER, DISSENTING: I dissent from the majority order granting General Telephone Company of the Southeast's motion to reopen Docket No. P-19, Sub 133, and consolidate it with its current application for a general rate increase in Docket No. P-19, Sub 136, because it allows General to reopen a docket which has been discontinued, closed, and dismissed.

On September 10, 1971, General petitioned "the Commission to institute another general docket to consider the rates and charges made by telephone companies within the State of North Carolina for non-recurring charges for installations, changes, moves and reconnects" on grounds that labor costs "have increased since the last investigation." On September 30, 1971, only twenty (20) days following receipt of General's petition, the Commission issued its order instituting the exact type proceeding requested by General. The Commission's order placed the burden of proof on each of the North Carolina companies to "justify any schedule of rates which a particular company contended be adopted." Following public hearing in which General had every opportunity to justify its petition for increases, the Commission issued its order dated February 18, 1972, in which it found that General and all of the other respondent companies "failed to carry the burden of proof, by the evidence and its greater weight, establishing the justness and reasonableness of higher non-recurring charges for telephone installations, changes, moves, and reconnects." Accordingly, the order discontinued the investigation and dismissed the docket. This investigation encompassed and settled the issues presented by General in its petition in Docket P-19, Sub 133, and the Commission correctly, in recognition of this fact, issued a routine order closing the docket. After failing to obtain the increased rates and charges which it sought in Docket P-19, Sub 133, General sought reconsideration of the identical matters by filing a motion to reopen the docket and consolidate it with its current application for a general rate increase in Docket P-19, Sub 136, which is scheduled for public hearing beginning Tuesday, April 18, 1972.

The majority action in allowing General to reopen and consolidate its petition to increase non-recurring rates and charges which have for years been uniform among the twenty-eight (28) telephone companies operating in North Carolina may be the beginning of the end of uniform rates and charges under a policy instituted many years ago by the Commission. I believe that statewide uniformity of non-recurring rates and charges for telephone connections, changes, moves and reconnects is in the public interest, and that just and reasonable non-recurring rates and charges have been and can be maintained.

If General or any other company is permitted to destroy this long-established policy and concept of statewide uniformity of these non-recurring charges, we face a likely further deterioration and fragmentation of the already unnecessarily complex and outmoded telephone rate structure when, I believe, there is every reason to expect telephone companies to move toward simpler, more uniform rate structure calculated to eliminate inequities and discrimination.

John W. McDevitt, Commissioner

EXHIBIT "A"
GENERAL TELEPHONE COMPANY OF THE SOUTHEAST
NOTICE OF HEARING
DOCKET NO. P-19, SUB 136

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION:

Notice is hereby given that General Telephone Company of the Southeast has made application to the North Carolina Utilities Commission for authority to increase its non-recurring charges as hereinbelow described which the Company estimates would produce approximately $138,085.00 in additional annual revenue. The Company has heretofore filed a general rate application which has been set for investigation and hearing at the times set forth below and Notice to the public has heretofore been published by the applicant. Upon Motion of the Company and approval by the Commission, the application for non-recurring charges has been consolidated with and made a part of the general rate application. The present and proposed non-recurring charges and the amount of increases, which are in addition to the Company's general rate application, are as follows:

TYPE OF ORDER	PRESENT SCC OR NRC	PROPOSED SCC OR NRC	INCREASE
NEW CONNECTS (Not in Place) Main Station, PBX Trunk, Outside Extension and PBX Station, Tie Line, and	$10.00	$15.00	$ 5.00
Extension Station, PBX Station, Bell, Gong, Horn, Key, Switch, Chime and Lamp, each	5.00	10.00	5.00
Centrex Stations	6.00	10.00	4.00
NEW CONNECTS (In Place) Main station, plus any other portion of entire service utilized	5.00	10.00	5.00
PBX Station or Extension Station, each	5.00	10.00	5.00

INSIDE MOVES			
Main Station, Extension Station, PBX Station, Bell, Gong, Horn, Chime, and Lamp, each	5.00	10.00	5.00
CHANGE IN STATION			
Business	5.00	10.00	5.00
Residence	5.00	10.00	5.00
CHANGE IN TELEPHONE NUMBER			
Business	5.00	10.00	5.00
Residence	5.00	10.00	5.00
RESTORATION CHARGE			
Business and Residence	5.00	10.00	5.00
Minimum Visit Charge	-	10.00	5.00*

* As related to Present Move or Change Charge.

The Commission has set said application for hearing at locations and dates for certain purposes as follows:

(a) Public Witness Testimony

A one day hearing for the convenience of the public to hear the testimony of public witnesses.

Monroe Union County Courtroom 10:00 A.M.
April 25, 1972
Union County Courthouse

(b) Public Witness, Applicant's, and Intervenors and Staff Testimony

The Commission shall hear the testimony of any additional public witnesses, and the testimony and cross examination of Applicant's witnesses and intervenors and staff witnesses.

Durham Superior Courtroom 10:00 A.M.
April 18, 1972
Durham County Courthouse

Protests or petitions to intervene should be filed in accordance with Rules R1-6, R1-17, and R1-19 of the Commission's Rules and Regulations.

ISSUED BY ORDER OF THE COMMISSION.

This the 17th day of March, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

Note to Printer: Advertising cost shall be paid by the Applicant. It is required that the Affidavit of Publication be filed with the Commission by the Applicant.

DOCKET NO. P-70, SUB 105

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for Adjustment of Rates and Charges for North Carolina Telephone Company	)	ORDER APPROVING PARTIAL INCREASES IN RATES

HEARD IN: Firemen's Training Center, Wadesboro, North Carolina, April 4 and 5, 1972; and in the Public Library, Union Room, Monroe, North Carolina, April 6 and 7, 1972; and in the Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on April 12, 1972.

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

APPEARANCES:

For the Applicant:

B. Irvin Boyle
Boyle, Alexander and Hord
623 Law Building
Charlotte, North Carolina

Robert C. Hord, Jr.
Boyle, Alexander and Hord
623 Law Building
Charlotte, North Carolina

For the Intervenors:

T. W. Graves, Jr.
Assistant Counsel for Fieldcrest Mills, Inc.
Stadium Drive
Eden, North Carolina 27288
Appearing for: Fieldcrest Mills, Inc.

Andrew G. Williamson
Mason, Williamson, Etheridge & Moser
316 Wachovia Building
Laurinburg, North Carolina
Appearing for: Morgan Mills, Inc.
Z. V. Pate, Inc.

For the Attorney General:

Louis W. Payne, Jr.
Assistant Attorney General
Ruffin Building
Raleigh, N.C.
Appearing for: The Using and Consuming Public

For the Protestants:

Henry Smith, Jr.
Smith, Smith & Perry
Attorneys at Law
Box 782, Monroe, North Carolina
Appearing for: Union County Farm Bureau

For the Commission Staff:

William E. Anderson
Assistant Commission Attorney
Ruffin Building, One West Morgan Street
Raleigh, North Carolina 27602

BY THE COMMISSION: On October 28, 1971, North Carolina Telephone Company (hereinafter also styled "N.C. Tel." or "the Company"), P. O. Box 428, Matthews, North Carolina 28105, filed an Application with this Commission for authority to increase its rates and charges for local monthly telephone service, non-published numbers, non-listed numbers, additional directory listings, key equipment, rotary telephone service, auxiliary service and equipment, business extension stations and toll service.

In its application N.C. Tel. seeks additional gross annual revenues of $835,700.20 based on the level of operations at June 30, 1971, proposing to obtain $72,174.60 of this increase by changes in its charges for the above general exchange tariff items, to obtain $5,200.00 from increased toll charges, and to obtain the balance of $758,325.60 by adjustment of local monthly charges.

By its Order issued November 24, 1971, the Commission acknowledged the application filed by N.C. Tel. for authority to increase its rates and charges for local and long distance (toll) intrastate telephone service throughout its North Carolina service areas, and suspended the effective date of the proposed rates for investigation into their justness and reasonableness. The Commission noted that the toll increases requested in Company's application were investigated in Docket No. P-100, Sub 26, and therefore, only the revenue effects of any increases in settlements to the Company would be considered in this proceeding. It appearing that the proposed increase in rates and charges for local service would affect the public interest, the Commission set the matter for hearing in Wadesboro, North Carolina, on April 4, 1972, and in Monroe, North Carolina, on April 6, 1972.

On December 23, 1971, the Company filed further data deleting the toll increase and indicating that the proposed local monthly service rates would produce an increase in gross annual revenues of $766,463, which with the increase in rates for general exchange tariff items would amount to an increase in gross annual revenues of $838,638.

The annual revenue effect of the proposed adjustments in the various general exchange tariff items would be as follows:

Number Service	$ 7,266.00
Key telephone equipment	34,899.60
Rotary Telephone Service	11,088.00
Auxiliary service and equipment	7,575.00
Extension (Business Service)	11,346.00

The Present and proposed main station rates and the amount of increase are as follows:

	Residence			Business		
	1-Pty.	2-Pty.	4-Pty.	1-Pty.	2-Pty.	4-Pty.
Marshville and New Salem Exchanges						
Present	6.45	5.70	5.05	10.45	7.45	6.45
Proposed	10.45	9.70	9.05	17.15	14.15	13.15
Increase	4.00	4.00	4.00	6.70	6.70	6.70
Ansonville, Lilesville, Morven and Wadesboro Exchanges						
Present	6.95	5.70	5.20	11.45	8.45	7.45
Proposed	10.95	9.95	9.20	18.15	15.15	14.15
Increase	4.00	4.25	4.00	6.70	6.70	6.70
Laurel Hill Exchange						
Present	6.95	6.45	5.95	11.45	10.45	9.45
Proposed	11.20	10.20	9.45	18.70	16.45	14.95
Increase	4.25	3.75	3.50	7.25	6.00	5.50
Peachland - Polkton						
Present	6.95	5.70	5.20	11.45	8.45	7.45
Proposed	11.20	10.20	9.45	18.70	16.45	14.95
Increase	4.25	4.50	4.25	7.25	8.00	7.50
Pinebluff Exchange						
Present	7.70	6.70	5.95	12.45	11.20	10.45
Proposed	11.45	10.45	9.60	19.15	16.95	15.45
Increase	3.75	3.75	3.65	6.70	5.75	5.00

Norwood and Wingate Exchanges

Present	7.70	6.70	5.70	13.45	10.45	8.95
Proposed	11.70	10.70	9.70	20.15	17.15	15.65
Increase	4.00	4.00	4.00	6.70	6.70	6.70

Hemby Bridge, Indian Trail and Matthews Exchange

Present	7.95	6.95	6.45	15.45	13.95	12.95
Proposed	11.95	10.95	10.45	22.15	20.65	19.65
Increase	4.00	4.00	4.00	6.70	6.70	6.70

Waxhaw Exchange

Present	12.45	11.45	10.45	20.45	17.45	16.45
Proposed	14.45	13.45	12.45	24.45	21.45	20.45
Increase	2.00	2.00	2.00	4.00	4.00	4.00

The Company gave the requisite public notice and the matter came on for hearing at the time and place designated by prior order.

SUMMARY OF TESTIMONY

The Applicant offered the testimony and exhibits of the following witnesses: Mr. A. L. Groce, Consultant; Mr. B. N. Hatfield, Consultant; Mr. Archie Thomas, Vice President of North Carolina Telephone Company; Mr. W. E. Thaxton; Mr. R. T. Payne, Vice-President, Mid-South Consulting Engineers, Inc.; and Mr. Linn D. Garibaldi, President, North Carolina Telephone Company.

The following public witnesses testified in Wadesboro: Mrs. Hubert Edwards; Mrs. Roland Horn; W. T. Shelton; Norwood E. Teal; Mrs. O. J. Garrison; Mrs. Jennie Lou Lee; Mrs. Bobby Colvin; Mrs. Thornton Little; Mrs. Deresa Jefferson; Tommy Tucker; Alvin Earnheardt; Jim Trowbridge; Mrs. Jimmy Caudle; Mrs. Gloria Dixon; Mrs. Virginger Lilly; Mrs. Brenda Bennett; D. J. Crowell, Jr.; Bryant Braswell; Mrs. Mildred Blackwell; Mrs. W. M. Gaddy; Glenn F. Webb; Robert L. Cagle, Jr.; Mrs. Katherine Kendall and Mack Coley.

The following public witnesses testified in Monroe: Mrs. Guy D. Kitchen; Mrs. V. L. Austin; Jack Sherrill; Mrs. Sandra Madison; Fred Hervey; David C. Kennedy; Guy D. Kitchen; Mrs. John S. Davis; Leroy Rushing; Mrs. Aline Horne; Bernard W. Cruse, Jr.; Mrs. Linda Nichols; Mrs. Charles Leighton; J. P. Clontz; C. W. Vaughan; Mrs. George Jones; Mrs. C. H. Hunter; Mrs. Anna Taylor; Bob Burgess; Joseph L. Barrier; Mrs. Larry Turbyfill; Porter Behrendt; James Carrigan; R. B. Winchester; Herbert Lee; Robert L. Dobbins; Mrs. Dave Rogers; Mrs. Laura Paxton; Miss Gertrude Moore; Mrs. Mabel Deal; Mrs. Rea Hartis; Mrs. Helen Blair; Lucille Clontz; J. Harley Cunningham; Mrs. Jim Johnson; Mrs. Lanny Smith; Don Cunningham; William Dean; W. K. Hile; Robert L. Morgan, Sr.; T. T. Wilson and K. C. Long.

The Commission Staff presented the testimony and exhibits of the following witnesses: Mr. Vern W. Chase, Chief Engineer, Telephone Rate Division; Mr. William Carter, Accountant; Mr. Gene Clemmons, Chief Engineer, Telephone Service Division, and Mr. William R. Cash, Utilities Engineer.

Mr. A. L. Groce testified that the replacement cost using the consumer price index was $16,436,624, and using the gross national product deflator, the amount was $16,453,121; that in his opinion the fair value of the company's properties used and useful in rendering telephone service as of June 30, 1971, was $16,000,000; that arriving at that figure, he considered the basic tangible factors including original cost, original cost less that portion consumed by previous use recovered by depreciation expense, the replacement cost thereof at current cost levels, the capital investment in those properties and the amount of capital in current value dollars.

Mr. Groce testified that the company should have earnings (net operating income) sufficient to provide an annual rate of return in the range of 7.9% to 8.1%. Mr. Groce testified that the capital structure of the company at June 30, 1971, was Debt - 74%, Preferred Stock - 10%, and Common Equity - 16%. He testified that the current ratio of debt to total capital is too high for a privately owned utility of its size.

On cross examination, Mr. Groce testified that during the eighteen (18) months from 1969 to the beginning of the test period gross operating revenues increased approximately 23%; net operating income increased approximately 17.4%; expenses increased approximately 16%. The rate of increase in the average telephone investment during that period was approximately 5.6%.

Since 1969 the imbedded cost of debt has increased from 5.49% to 6.72%, or an increase of 1.23 percentage points. The company's return on gross investment has dropped four-tenths of a point in six months but is virtually the same as it was five and one-half years ago.

Mr. Benjamin F. Hatfield testified that the $16,000,000 which Mr. Groce found to be the fair value of the property as of June 30, 1971, was reasonable and conservative. Mr. Hatfield then testified that the original cost of property does not represent the present fair value of the property; rather the "replacement costs" should be considered.

On cross examination, Mr. Hatfield testified that he used indices derived from the actual experience of Southern Bell in North Carolina, which do not determine reproduction cost; rather the indices are intended to determine present worth of the dollars invested in the plant. Mr. Hatfield testified that he did not think Mr. Groce should have made any investment tax credit adjustment, but if an adjustment

is to be made, the unamortized balance should be used. Mr. Hatfield further testified that any inefficiencies which have crept into the plant would affect the fair value, but would not affect the original cost, that if there were imprudent investment rendering the plant worth less than it cost originally, assuming the stable dollar, he would say that imprudent investment should be deducted.

Mr. W. E. Thaxton testified that his firm has prepared exchange facility maps, cable schematics, transmission studies, and a design for the proposed new Providence exchange; that he found the condition of the outside plant to be very good and that in his opinion the plant cable records were exceptionally accurate; that prior to 1971 the Company had largely done its own planning and layout work; that this was done by experienced plant department employees generally following accepted engineering practices of the larger systems and the REA; that in January, 1971, the Company retained Mid-South; that the Company has begun to establish its own engineering staff starting in September, 1971 with a qualified man experienced in design and layouts of outside telephone plant; that expansion in rural areas is being engineered on a predominantly fine gauge, buried plant basis; that in the near future, the Company plans to bid some major projects on both a labor and material basis, and the Company will go to labor and material contracts for major projects should this method prove more economical; that he didn't think the Company has a person in charge of forecasting in its table of organization, but the Company is developing plans to do this. Mr. Thaxton testified that the Company practices in sizing cables that they had used for years before Mid-South was retained. He further testified that Mid-South was able to change some of the cables that had been ordered but not already received. Mr. Thaxton testified that a cable cannot be properly sized without considering the forecast of the station growth in the area.

Mr. R. T. Payne testified that he made investigations with regard to the practices pertaining to traffic, equipment and transmission engineering and the quality of equipment maintenance; that traffic studies had been made by North Carolina Telephone Company personnel and the results of those studies had been furnished to him; that he reviewed the studies and found that generally the traffic studies showed deficiencies in nearly all exchanges in linefinders and connectors. Mr. Payne testified that since the traffic studies were completed, additions had been made in nearly all exchanges, which should provide adequate equipment to handle both local and trunk traffic. Mr. Payne testified that operational tests were made using a hand test telephone and test meters in each office and that these tests showed the equipment to be functioning properly. He further testified that the Company does not at this time have a full time traffic manager or any personnel assigned full time to measure or compute traffic or equipment requirements but utilizes the engineering services of the equipment manufacturers; that the Company will add a full time traffic

and dial administrator to the staff as soon as a suitable person can be obtained; that, in his opinion, the traffic program proposed will enable the Company to provide equipment and facilities necessary to meet the objective set out by the Company.

Mr. Payne further testified that in the past equipment was engineered by the manufacturer using traffic information provided by the Telephone Company; that it is planned to have Mid-South Consulting Engineers review future additions and changes to the central office and toll facilities.

On cross examination, Mr. Payne testified that he made some transmission tests, but they were not included in his exhibits; that his exhibits do not include the results of operational checks on equipment on local calls to other EAS and toll points; that his exhibits are primarily a summary of the equipment which is installed and working or in the process of installation. Mr. Payne testified that the primary responsibility of providing service is the responsibility of the serving company; that Southern Bell has been primarily responsible for the sufficiency of facilities between Bell and N.C. Tel.; that N.C. Tel. is no longer going to rely on Bell and will make their own studies beginning in 1972; that he had no record nor had he made any tests to indicate whether the facilities between N.C. Tel. and Southern Bell are adequate.

Mr. Payne testified in rebuttal to the testimony of Mr. Clemmons of the Commission Staff. Mr. Payne commented on each of Mr. Clemmons' exhibits No. 1 through 14. He also commented on Mr. Clemmons' statement with regard to N.C. Tel.'s compliance with the Commission Order in Docket No. P-70, Sub 100, dated February 10, 1971. Mr. Payne concluded with a statement that he felt that North Carolina Telephone Company's service has improved and that the Company is giving adequate telephone service.

Mr. Archie A. Thomas testified that the proposed schedule of rates and charges was designed to provide the Company with additional gross revenues sufficient to improve its earnings to a level which would enable it to adequately meet the increased costs of providing telephone service to its customers; that the amount of additional gross revenue required was determined by the Accounting and Treasury Departments of the Company with the assistance of consultants; that the value of service concept was considered and was the basis on which PBX trunks and business lines were rated higher than residence service; that the value of service was also the basis on which rate groups are proposed.

On cross examination, Mr. Thomas testified that changes in zone charges and color charges were proposed because of the objectives expressed by the Commission in 1967 to eliminate multi-party service, to eliminate mileage charges and install zone charges.

He further testified that the Company has not made a thorough cost of service study, but relies on estimated cost of service and value of service to determine rates; that he is responsible for commercial forecasting; that the Company is now in the process of developing commercial forecasting methods to predict growth of individual neighborhoods within each exchange.

Mr. Linn D. Garibaldi testified that the factors underlying filing an application for a general rate increase were the effect of rising costs on their operations and inflation; that wages and related costs which comprise 40% of total operating expense having gone up 391% since 1960; that the price of all goods and services necessary in rendering telephone service have increased, including primarily the cost of capital.

Mr. Garibaldi further testified that the significant factors affecting the Company's earnings making it necessary to request revenue relief are rapidly rising cost of providing telephone service without corresponding increases in rates, increasing larger amounts of new capital required to provide necessary and desired service expansion and improvement, the lack of internal sources for generating new construction programs in recent years, the higher costs of construction dollars compared to the 1950's and early 1960's and the insufficient cash flow produced by present rates.

There were 24 public witnesses who testified at Wadesboro. Twenty of these witnesses testified concerning telephone service problems and objections to the proposed rate increase. These public witnesses spoke in reference to telephone service at Ansonville, Peachland - Polkton, Wadesboro, Pinebluff and Lilesville. Four public witnesses who testified in support of the Company were from Wadesboro. The public witnesses who testified concerning service problems indicated difficulty such as reaching recordings when dialing, difficulty making DDD long distance calls, cut-offs on long distance calls, busy signals, phone doesn't ring, billing errors and wrong numbers.

There were 39 public witnesses who testified at Monroe with regard to service problems and in opposition of the proposed rate increase. These subscribers were from the exchanges of Matthews, Indian Trail, Waxhaw and Hemby Bridge. The witnesses testifying with regard to service problems indicated that they have experienced difficulty dialing local calls within North Carolina Telephone Company service area, dialing to and from the Charlotte exchange of Southern Bell and direct distance dialing of long distance calls. Some of the specific types of service problems mentioned were wrong numbers, can't hear, fast busy signals, recordings, double connections, no ring, and noise. Public witnesses at Monroe included businessmen, housewives, lawyers, farmers, retired persons and teachers.

There were three public witnesses at Monroe who testified on behalf of the Company. Two of these witnesses were from Matthews and one witness from Marshville. These witnesses testified that their service was generally satisfactory, although two of the witnesses indicated they had experienced telephone service problems.

After the conclusion of all public witness testimony, Mr. Hatfield testified that, after hearing the complaints of the public witnesses, the complaints developed into patterns of difficulty. Mr. Hatfield testified that his technical conclusion is that the service cannot be as bad as the public witnesses indicate, although he is accepting the people's complaints at face value, and accepting the fact that the subscribers are having trouble with their service. Mr. Hatfield testified that he believes one problem is that people are dialing without listening for dial tones; that many people were forcing their dial; in other words, they were either speeding up or retaining the dial as it returns to normal.

On cross examination, Mr. Hatfield testified that in his career with Southern Bell he had never given testimony in which he recommended that Southern Bell should educate its subscribers in the use of the telephone.

Mr. Gene A. Clemmons testified that the Commission Staff's latest review of telephone service provided by the Company was made during January, February and March, 1972; that this review consisted of making intra-office test calls, inter-office test calls, direct distance dialing test calls, transmission and noise measurements, measurements of operator and directory assistance answers, traffic studies, central office equipment tests, outside plant tests, contacts with subscribers, a review of held orders and regrades, a review of trouble reports, service installations results and a review of available central office equipment. Exhibits were introduced and explained to support staff findings. Mr. Clemmons related the staff's findings to the service improvement requirements imposed on the Company in Docket No. P-70, Sub 100 dated February 10, 1971. Mr. Clemmons further testified that it was his conclusion based on the staff's review of service provided by North Carolina Telephone Company that the service had not improved to a level that is fully acceptable. He further testified that the Company had made some improvements in certain areas of service; that the studies made by the staff showed that there are still very serious traffic problems in many of the Company's exchanges; that the operation of the Hemby Bridge central office is still unreliable and that difficulty with calls originating in Charlotte and originating in exchanges of N.C. Tel. indicate that Southern Bell and N.C. Tel. have not followed through on the responsibility of providing the highest quality of service; that it appeared that North Carolina Telephone Company had not carried out its responsibility to improve service as required by the Commission's previous order, nor had Southern Bell carried

out its commitments to provide continuing high quality service between Charlotte and exchanges of North Carolina Telephone Company.

Mr. William R. Cash testified about the results of his interim review of the Company's progress in complying with the requirements of items (a) through (e) of paragraph 3 of the Commission's Order in Docket No. P-70, Sub 100 dated February 10, 1971. Mr. Cash testified that the Company has made some progress in complying with items "a" and "b", primarily the preparation of cable layout maps and schematics; that commercial forecasts or plans and designs for plant additions are not being prepared in an organized manner and standard procedures necessary to accomplish this requirement have not been adopted; that the Company has indicated that it will investigate thoroughly the economics of employing formal competitive bidding, including labor and materials for major outside plant additions; that the Company has had sufficient time and opportunity to have competitively bid at least one major project but has not done so; that the Company is rapidly increasing its use of buried cable; that the Company has made central office equipment conversion studies in connection with their planned 1972 outside plant additions which will result in 1900 ohm conversions at Marshville, Norwood and Waxhaw; that the Company has not had sufficient time since the Commission's Order to develop an engineering operation and establish engineering procedures and practices necessary for satisfactory compliance with paragraph 3 of the Order; and that the need for the Company to fully comply with the February 10, 1971 Order as rapidly as possible is still just as vital today as when the Order was issued since plant investment, cost and service availability are directly affected.

Mr. Vern W. Chase testified that the Commission should give consideration to an alternate grouping plan other than what the Company proposed; and that groups as proposed by the Staff would tend to simplify the Company's rate schedules and would lengthen the period before an exchange would grow out of its group; that the Commission should give consideration to a larger differential than that proposed by the Company between one and two-party service and two and four-party service; that business rates should be fixed at approximately twice the residence rates.

Mr. William E. Carter testified that the Company's operations at the end of the test year yielded a rate of return on net investment, plus working capital, of 6.32%; that approval of the proposed rates after the proposed reduction in color and zone charges, would increase the rate of return to 8.69%; that approval of the proposed increased rates and reductions would increase the return on common equity from 6.06% to 19.67%; that the capital structure consists of 72.74% debt, 9.63% preferred stock, 1.80% interest free capital, and 15.83% common equity.

Mr. Carter testified that subsequent to the filing of his testimony the Price Commission issued guidelines regarding wage increases in excess of those allowed by the Price Commission, i.e. five and one-half percent per year. The Company had wage increases in excess of that amount during the test year, but they took place before the wage-price freeze went into effect.

On cross examination, Mr. Carter testified that he computed cash working capital by dividing total operation and maintenance expenses for the test year by twelve, adding average prepayments, deducting average tax accruals and average customer deposits; that the average accruals were computed on a thirteen (13) month basis. Whereupon the Commission makes the following

FINDINGS OF FACT

1. North Carolina Telephone Company is a duly franchised public utility providing telephone service to subscribers in fifteen local exchanges, is a duly created and existing corporation authorized to do business in North Carolina and is properly before the Commission in this proceeding for a determination as to the justness and reasonableness of its proposed rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. The total net increases in rates and charges proposed by North Carolina Telephone Company would produce a total of $838,638 in additional gross annual revenue.

3. The test period utilized by all parties and set by the Commission in this proceeding was the twelve months' period ending June 30, 1971.

4. The original cost of North Carolina Telephone Company's investment in telephone plant in service in its North Carolina service area on June 30, 1971, was $16,437,620, with depreciation reserve of $2,581,449, for a net investment in telephone plant in service of $13,856,171.

5. That under present rates, the reasonable amount of materials and supplies required for telephone operations is $282,930, and cash working capital is $95,796; there was available at the end of the test period $15,901 in average prepayments, $108,072 of tax accruals and $10,235 of customer deposits available for use as working capital, with a total net working capital requirement in the rate base requirements of $276,320. Total average prepayments and net investment in telephone plant in service plus allowance for working capital are both $6,059 more than are shown on Schedule I of Mr. Carter's Exhibit. This is the result of the addition of average prepaid taxes in computing average prepayments.

6. That under present rates the net investment in plant in service and working capital allowances at the end of the test period June 30, 1971, for North Carolina Telephone Company was $14,132,491.

7. That North Carolina Telephone Company's total operating revenues in North Carolina during the test period under the present rates were $3,097,708; that reasonable operating expenses for the test period are $2,239,093, leaving net operating income of $858,615, adjusted for end-of-period income from new plant in service, by additional net income of $34,001, with net operating income adjusted for the test period of $892,616.

8. That the ratio of net income under the present rates as applied to the net investment in telephone plant of $14,132,491, including working capital as adjusted for tax accruals, is 6.32%.

9. That after fixed charges on bonds and short-term notes of $698,442 and on preferred stock of $84,600 for the test period, there remains net income for common equity in the amount of $146,679; that the common equity investment in North Carolina Telephone Company at the end of the test period was $2,420,061, producing a return on common equity under the present rates at the end of the test period of 6.06%.

10. That the return on this company's highly leveraged common equity of 6.06% is insufficient to compete in the market for capital funds on terms which are reasonable and which are fair to the company's customers and its existing investors.

11. That the capital structure as of the end of the test period of 72.74% debt, 9.63% preferred stock, 1.80% interest free capital, and 15.83% common equity is not appropriate for North Carolina Telephone Company, and future changes in this structure, particularly liquidation of short-term debt, are anticipated.

12. That North Carolina Telephone Company has made certain improvements in service subsequent to the Order of this Commission issued on February 10, 1971, in Docket No. P-70, Sub 100, finding the service to be inadequate and inefficient; the overall level of service, however, has not yet been improved to a level which is adequate and efficient, as is required by Chapter 62 of the General Statutes. The service is inadequate as to the basic reliability and dependability of operation of the telephone system which is necessary to meet the needs of its subscribers and to satisfy the degree of reliability and dependability which can be reasonably expected from an operating telephone company providing service in North Carolina.

13. That North Carolina Telephone Company has taken some measures as required by the Commission's previous Order in Docket No. P-70, Sub 100, with regard to engineering of plant and equipment; the company, however, has not reached the point where engineering and construction of telephone plant is at a well-planned and efficient level as required.

14. That the replacement cost determined by the company by trending original cost of North Carolina Telephone Company's property to current cost levels by the Consumer Price Index is $16,453,121, and by the G.N.P. Deflators is $16,960,470.

15. That the fair value of North Carolina Telephone Company's property rendering telephone service to its North Carolina subscribers, considering the original cost less depreciation and considering replacement cost by trending original cost to current cost levels, is $16,000,000.

16. That additional gross revenues of $316,032, including a reduction in zone charges of $25,879, will produce a 6.48% rate of return on the fair value of $16,000,000; after uncollectibles and adjustments to operating revenue deductions, the net operating income produced by said gross revenues as applied to test period operations will be $1,036,345; that the amount available for common equity after test period fixed charges and preferred dividends will be $290,408, for common equity of $2,420,061, or a return on common equity of 12.00%.

17. That assuming adequate service were being provided, a rate of return on the fair value of the company's property in the range of 7.5% to 8.00% and a return in the range of 12% to 13% on the common equity of the company, based on test year operations and the company's present debt-equity capital structure, would represent a just and reasonable return on the company's property and the common equity investment. However, because of the company's presently inadequate service, we find that a rate of return of 6.48% on the fair value of its property is just and reasonable. The 6.48% rate of return on fair value produces a 12.00% rate of return on test period common equity and will produce a 5.16% rate of return on common equity after the issuance of 3,600,000 shares of preferred stock as approved in Docket No. P-70, Sub 111. This 12.00% rate of return on test period common equity, or 5.16% rate of return on common equity in the near future, based on the known change, is below the return on common equity which would be found reasonable for this highly leveraged utility equity investment if the service were adequate, but the net operating income which will be produced by the rates necessary to produce a 6.48% rate of return on fair value and the rates of return on common equity set out above will be sufficient to cover all test year fixed charges and also preferred dividends, including known changes in dividends attributable to the issuance outside of the test year of the $3,600,000 shares of preferred stock, and based on the

present quality of service, such rates of return are reasonable and any higher rates of return on fair value or on common equity would be unreasonable at this time.

18. That the rate increases proposed in this docket in excess of those herein found are necessary to produce additional local service revenues of $316,032 are unjust and unreasonable, as they would produce rates of return in excess of those herein found to be just and reasonable.

19. That the company proposed to file tariffs reducing zone charges and charges for color telephones, as an offset to the anticipated gross revenue increases anticipated as a result of the Commission's Interim Order in Docket No. P-100, Sub 26, authorizing increased toll rates for all regulated telephone companies in North Carolina. The company's proposed reductions would total $111,984, as follows: 100% reduction of 4-party zone charges, $52,782; 50% reduction of 2-party zone charges, $11,076; 50% reduction of 1-party zone charges, $33,060; elimination of color charges, $15,066. The Commission finds that zone reductions of that magnitude and elimination of color charges are not justified at this time, but that reductions in 1 and 2-party zone rates, in the amount of $25,879 to be applied in the manner set out hereinafter in Appendix "A", are just and reasonable.

SUMMARY

By its Application in this proceeding N.C. Tel. seeks increases and certain decreases in rates to produce $838,638 of additional revenue from the customers receiving service at the end of the test period.

The Commission has found as a fact that such proposed total increases are unjust and unreasonable and will produce a return greater than a reasonable rate of return on the telephone plant in service at the end of the test period. The Commission has further found as a fact that the present rates are insufficient to produce a fair rate of return, and has found as a fact that an increase in the gross operating revenues in the amount of $316,032 is necessary to produce a reasonable rate of return on the fair value of the company's property in service at the end of the test period, and that increases in monthly rates and other charges to produce such additional annual revenue are just and reasonable. The distribution of said total annual increases over the respective monthly rates and other rate changes filed herein for the modified rate groupings are discussed under the Conclusions in this Order, and the prescribed increases for each specific charge are set out in the ordering paragraphs and Appendix "A" of this Order.

The following Tables, based on the Findings of Fact, show the basis for the $316,032 found to be a reasonable annual increase in the applicant's revenues from the record in this proceeding.

NORTH CAROLINA TELEPHONE COMPANY
NET OPERATING INCOME AND NET INCOME COMPUTATIONS
FOR THE TEST PERIOD ENDING JUNE 30, 1971, AFTER ADJUSTMENTS

	At Present Rates	Approved Rate Increase Including Zone Charge Reduction of $25,879	After Approved Rate Increase
Operating Revenues			
Local service revenues	$1,783,081	$316,032	$2,099,113
Toll service revenues	1,186,088		1,086,088
Miscellaneous	147,255		147,255
Uncollectibles	(18,716)	(2,196)	(20,912)
Total	3,097,708	313,836	3,411,544
Operating Revenue Deductions			
Operation and maintenance expense	1,149,547		1,149,547
Depreciation and amortization	632,045		632,045
Taxes other than income	309,381	18,830	328,211
Income taxes - state	14,092	17,700	31,792
Income taxes - federal	77,945	133,106	211,051
Income taxes - deferred accelerated depreciation	44,515		44,515
Investment tax credit normalization	25,370		25,370
Investment tax credit amortization	(13,802)		(13,802)
Total	2,239,093	169,636	2,408,729
Net operating income	858,615	144,200	1,002,815
Add: annualization adjustment - 3.96%	34,001	(471) *	33,530
Net operating income for return	$ 892,616	$143,729	$1,036,345

*Reduction in zone charges net of tax effects $(11,890)
Annualization factor X .0396
$ (471)

( ) Denotes Negative Amount.

Investment in Telephone Plant in Service			
Telephone plant in service	$16,437,620		$16,437,620
Less: reserve for depreciation	2,581,449		2,581,449
Net investment in plant in service	13,856,171		13,856,171

Allowance for Working Capital			
Materials and Supplies	282,930		282,930
Cash (1/12 of operation and maintenance expense)	95,796		95,796
Average prepayments	15,901		15,901
Less: average tax accruals	108,072	27,842	135,914
average customer deposits	10,235		10,235
Total allowance for working capital	276,320	(27,842)	248,478
Net investment in telephone plant in service plus allowance for working capital	$14,132,491	$(27,842)	$14,104,649
Rate of return - %	6.32		7.35
Fair value			$16,000,000
Rate of return - %			6.48

( ) Denotes Negative Amount.

NORTH CAROLINA TELEPHONE COMPANY
STATEMENT OF RETURN ON COMMON EQUITY
FOR THE TWELVE MONTHS ENDED JUNE 30, 1971

	Present Rates	After Approved Rate Increase
Net Operating Income for Return	$ 892,616	$1,036,345
Other Income - Net	37,105	37,105
Amount available for fixed charges	929,721	1,073,450
Fixed Charges	698,442	698,442
Preferred Dividends	84,600	84,600
Amount Available for Common Equity	146,679	290,408
Common Equity	2,420,061	2,420,061
Return on Common Equity - percent	6.06%	12.00%

NORTH CAROLINA TELEPHONE COMPANY
STATEMENT OF RETURN ON COMMON EQUITY
WITH PRO FORMA ADJUSTMENT FOR ISSUANCE OF
3,600,000 SHARES OF 8% PREFERRED STOCK
AS APPROVED IN DOCKET NO. P-70, SUB 111

	Present Rates	After Approved Rate Increase
Net Operating Income for Return	$ 764,561	$ 908,290
Other Income - Net	37,105	37,105
Amount available for fixed charges	801,666	945,395
Fixed Charges	447,943	447,943
Preferred Dividends	372,600	372,600
Amount Available for Common Equity	(18,877)	124,852
Common Equity	2,420,061	2,420,061
Return on Common Equity - Percent	-0-	5.16%

Whereupon the Commission reaches the following

CONCLUSIONS

The level of telephone service now being provided by North Carolina Telephone Company to subscribers in its service area is not adequate and must be improved with respect to reliability and dependability of service to the subscribers. The Commission considered the level of service in Docket No. P-70, Sub 100, heard in October 1970, and during the present case. The Commission had anticipated that North Carolina Telephone Company would take aggressive and thorough action to provide a level of telephone service that was efficient and dependable to its customers. However, the weight of the evidence in this case indicates that the service has not reached such a level. The Commission concludes that the requirements of paragraph 3 of the Order of February 10, 1971, in Docket No. P-70, Sub 100, should remain in full force and effect until further notice.

The Commission by its Order issued May 2, 1972, in Docket No. P-70, Sub 111, approved a management service contract between North Carolina Telephone and Mid-Continent Telephone Services Corporation and the issuance of stock which may result in the Mid-Continent acquiring control of North Carolina Telephone Company. The Commission anticipates that the management contract and possible acquisition will bring about the required service improvement in the franchised area of North Carolina Telephone Company, and that management participation by Mid-Continent will result in improved engineering and improved efficiencies of operations, as well as an improved service level.

The company should be required to investigate the complaint of each public witness and take such action as may be necessary to correct service deficiencies.

The Commission has acted positively to bring about a reduction in the zone charges for telephone service to customers outside of the base rate area in North Carolina in order to reduce this burden upon rural customers, and finds and concludes that the reduction in zone rates as set out in Appendix "A" are just and reasonable in order to remove a portion of the differential in rates to rural customers as compared with the base rate to urban customers; the Commission does not, however, consider that further reduction beyond that approved in this Order or that elimination of the charge for color telephone sets can be economically undertaken at this time and must be postponed until they are economically feasible.

The Commission has found that the fair value of the plant in service is $16,000,000 and that a fair rate of return on the fair value of the plant is 6.48%, bringing net income for return of $1,036,345. This produces a ratio of net income to the original cost of the property of 7.35%, a rate of return on test year common equity of 12.00%, and a rate

of return on the common equity after issuance of 3,600,000 shares of preferred stock of 5.16%. The Commission concludes that the additional revenues approved are the minimum revenues required under the facts and circumstances of this case, consistent with the maintenance of telephone service in the North Carolina Telephone Company service area, and the Commission's directive that said service be improved. The overall rate increases and decreases approved in Appendix "A" will produce an increase of 10.13% in the total North Carolina Telephone Company revenues and will be an increase of 17.72% in the revenues derived from local service rates. Local exchange increases will range from a high of 95% for business service in New Salem and Marshville to a low of 0% for residence and business service in Waxhaw. The high percentage increase for business subscribers in New Salem and Marshville is necessary to remove inequities which previously existed because their rates were much lower than rates of other North Carolina Telephone Company subscribers.

The Commission concludes that the said approved annual increase in rates of $316,032 should be derived from increases shown in Appendix "A" in rates, for (a) business stations, (b) directory listings, (c) rotary telephone lines, (d) key equipment, (e) miscellaneous items; that decreases should be allowed as shown in zone charges and that the balance of the total annual increases should be derived from net increases in the monthly rate for local telephone service, based on calling scope rate groupings for all exchanges.

The Utilities Commission takes judicial notice of the President's Executive Order establishing Phase II of wage and price controls under the Economic Stabilization Act of 1970 as amended and the establishment of the Price Commission pursuant to said Order, and the rules and regulations of the Price Commission published in Volume 36, No. 220, Federal Register, December 17, 1971, §300.16, Regulated Utilities, at p. 21,793, as amended in Volume 37, No. 9, Federal Register, January 14, 1972, at p. 652, and Volume 37, No. 54, March 18, 1972, at p. 5701, and published in 6 CFR § 300.16.

The Utilities Commission is further advertent to guidelines, criteria, and policies of the Price Commission as cited above. The increase approved here produces gross annual revenues which are 10.13% more than the rates which were fixed in 1960 and which were in effect during the base period prior to the price freeze on August 14, 1971. The Commission concludes that the North Carolina statutory rate procedure and the evidence in this proceeding, and the consideration thereof by the Commission, fixes the rates of North Carolina Telephone Company in this proceeding on the basis that they will provide no more than the minimum return necessary to assure continued and adequate service. The return actually earned by North Carolina Telephone Company from the rates previously in effect produced a rate of return of 6.32% on net investment or 5.58% on the fair value

of the plant in service, and 6.06% on the base period common equity, and if continued without the rate increase approved here, would not be adequate to assure continued and adequate service, and this Commission finds and so certifies that the increases are consistent with the criteria established by the Price Commission, and the documentation for such findings are set out fully in the Findings of Fact and Conclusions herein, based on evidence of record of the public hearings herein.

The most recent rate increase proceeding for North Carolina Telephone Company was heard in 1970; the Commission issued its Order February 10, 1971, allowing certain reductions and offsetting increases, but denying a net change in operating revenues because of inadequate service. Under the criteria provided in Price Commission Rules, Section 300.16(3)(iv), North Carolina Telephone Company has not had a general rate increase decision since August 10, 1960, and the projected rate of return on common equity capital approved by the Commission in this proceeding will be no greater than the rate of return established by the Commission for the utility which most nearly resembles North Carolina Telephone Company. Concord Telephone Company is the most recent decision of the Commission applicable to such similar telephone utility. In Docket No. P-16, Sub 86, the Commission on May 19, 1969, approved a rate of return on equity of Concord Telephone Company of 12.6%.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the applicant North Carolina Telephone Company be, and hereby is, authorized to increase the North Carolina local exchange telephone rates and charges to produce annual gross revenues not exceeding $316,032 by applying total increases of $341,911 after zone reductions or decreases of $25,879, based upon stations and operations as of June 30, 1971, as hereinafter set forth in Appendix "A".

2. That the local monthly rates and general exchange tariff item rates prescribed and set forth in Appendix "A" hereto attached which will produce additional gross revenue of $316,032 from said end of test period customers be, and are hereby, approved to be charged by North Carolina Telephone Company in North Carolina, effective with bills rendered in advance on the next billing date or dates five days following the release of this Order.

3. That North Carolina Telephone Company shall file necessary revised tariffs reflecting the above increases and decreases, to be effective as of the dates prescribed above.

4. That North Carolina Telephone Company investigate each complaint as testified to by the public witnesses in this case and provide the Commission with a report on action taken by the Company on or before August 1, 1972.

5. That ordering paragraph 3 of the Commission's Order dated February 10, 1971, in Docket No. P-70, Sub 100, shall remain in full force and effect until further action by the Commission.

6. That North Carolina Telephone Company under management and supervision of Mid-Continent Telephone Services Corporation take immediate, thorough and extensive action to provide dependable and reliable telephone service throughout the service area of North Carolina Telephone Company. This entails the requirement that North Carolina Telephone Company immediately advise the Commission in writing of any and all action which is necessary by Southern Bell Telephone and Telegraph Company in providing adequate and efficient service to subscribers of North Carolina Telephone Company.

7. That the Commission Staff continue to review North Carolina Telephone Company's progress under management service provided by Mid-Continent Telephone Services Corporation toward providing an adequate, reliable and dependable level of telephone service throughout its service area in North Carolina. Such service review by the Commission staff shall specifically include contacts with subscribers of North Carolina Telephone Company who testified at this hearing with regard to telephone service difficulty and shall also include measurements and evaluations of service provided by North Carolina Telephone Company as will provide a reasonable indication of the level of service being provided by the Company.

8. That North Carolina Telephone Company shall thoroughly evaluate its trouble reporting procedures, and take action as necessary to advise the subscribers of the means whereby their telephone trouble reports should be made known to North Carolina Telephone Company. Furthermore, North Carolina Telephone Company shall coordinate with Southern Bell Telephone Company and develop a program whereby trouble reports received by subscribers of Southern Bell or North Carolina Telephone Company involving difficulties on calls between Southern Bell exchanges and North Carolina Telephone exchanges shall be fully and thoroughly investigated.

ISSUED BY ORDER OF THE COMMISSION.

This 1st day of June, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
NORTH CAROLINA TELEPHONE COMPANY
DOCKET NO. P-70, SUB 105

Local Service Rates by Exchange

	Business			Residence		
	1-Pty.	2-Pty.	4-Pty.	1-Pty.	2-Pty.	4-Pty.
Ansonville	15.60	13.60	12.60	7.80	6.80	6.30
Hemby Bridge	19.60	17.60	16.60	9.80	8.85	8.35
Indian Trail	19.60	17.60	16.60	9.80	8.85	8.35
Laurel Hill	15.60	13.60	12.60	7.80	6.80	6.30
Lilesville	15.60	13.60	12.60	7.80	6.80	6.30
Marshville	15.60	13.60	12.60	7.80	6.80	6.30
Matthews	19.60	17.60	16.60	9.80	8.85	8.35
Morven	15.60	13.60	12.60	7.80	6.80	6.30
New Salem	15.60	13.60	12.60	7.80	6.80	6.30
Norwood	16.50	14.50	13.45	8.25	7.25	6.75
Peachland - Polktown	15.60	13.60	12.60	7.80	6.80	6.30
Pinebluff	16.50	14.50	13.45	8.25	7.25	6.75
Wadesboro	15.60	13.60	12.60	7.80	6.80	6.30
Waxhaw	20.45	17.60	16.60	12.45	11.45	10.50
Wingate	15.60	13.60	12.60	7.80	6.80	6.30

See the official Order for the remainder of Appendix "A."

DOCKET NO. P-70, SUB 105
NORTH CAROLINA TELEPHONE COMPANY

McDEVITT, CONCURRING: The evidence in the public hearings on North Carolina Telephone Company's general rate case and its petition to sell preferred stock and enter into a management contract with Mid-Continent Telephone Services Corporation shows conclusively that the Company is in dire financial condition; that it cannot meet its minimal obligation without financial and managerial assistance; that it is not fully meeting the reasonable service requirements of the public in the geographical areas in which it holds an exclusive franchise; that it does not have the financial resources to keep pace with the anticipated growth and service demands within its certificated area; that the capital structure consisting of over 72% debt and only 16% equity is indicative of inability or unwillingness to attract equity capital on reasonable terms; that the geographical, economic, and demographic characteristics of the territory are as conducive to the successful and profitable operation of this telephone utility as the service areas of other comparable telephone companies regulated by the Commission; and that the potential of the Company serving in and adjacent to metropolitan Charlotte and Mecklenburg County exceeds the potential of many telephone companies regulated by the Commission.

I cannot justify precipitating financial collapse of the Company and the probable resulting impact on the public. The Commission explored in public hearing the possibility of requiring Southern Bell Telephone Company to serve the area and Southern Bell through counsel advised that it was unwilling and would resist any attempt to require it to serve the North Carolina Telephone area. I am convinced that a course of action to require Southern Bell to serve this area would be prolonged indefinitely and that in the meantime the public and investors in North Carolina Telephone Company would suffer irreparable damage with little near-term prospect of improving service or rates.

If Mid-Continent Telephone Company is unable or unwilling to provide capital on terms which will enable the Company to overcome its dire financial dilemma without continuing unreasonably high and oppressive rates, it will be in the public interest for the Commission to initiate whatever action is necessary to require another utility with adequate resources to serve the territory now certificated to North Carolina Telephone Company.

John W. McDevitt, Commissioner

DOCKET NO. P-70, SUB 105

WELLS, COMMISSIONER, DISSENTING: I invite the customers of North Carolina Telephone Company, the Commission Majority, and indeed, the management of North Carolina Telephone Company, to consider briefly the nexus of North Carolina rate-making law, contained in Chapter 62 of the General Statutes:

"§ 62-2. DECLARATION OF POLICY. -- ... it has been determined that the rates, services and operations of public utilities...are affected with the public interest and it is hereby declared to be the policy of the State of North Carolina to provide fair regulation of public utilities in the interest of the public, to promote the inherent advantage of regulated public utilities, to promote adequate, economical and efficient utility services to all of the citizens and residents of the State, (emphasis supplied), to provide just and reasonable rates and charges for public utility services (emphasis supplied) . . . , (and) to promote continued growth of economical (emphasis supplied) public utility services . . . .

"§ 62-131. RATES MUST BE JUST AND REASONABLE; SERVICE EFFICIENT. (a) Every rate made, demanded or received by any public utility . . . shall be just and reasonable. (b) Every public utility shall furnish adequate, efficient and reasonable service.

"§ 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 (emphasis supplied) 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 . . . .
>
> (2) Estimate such public utility's revenue under the present and proposed rates.
>
> (3) Ascertain such public utility's reasonable operating expenses, (emphasis supplied) 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 (emphasis supplied) 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 (emphasis supplied) 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."

I challenge whether the Majority Order has met any of the statutory criteria.

In the first place, the evidence points clearly to the conclusion that the original cost of North Carolina Telephone Company properties is too high, these properties having been poorly planned, engineered, purchased and constructed. The following table will show that North Carolina Telephone Company has the highest investment per station of these comparable small companies. What the table does not show is that North Carolina's investment per station is the highest of all companies operating in this State.

PLANT IN SERVICE AS OF YEAR END

Company	Total Plant 1969	Per Station 1969	Total Plant 1970	Per Station 1970
Lexington	$ 6,836,310	$422	$ 9,029,637	$529
Thermal Belt	2,636,045	573	2,914,002	590
Norfolk & Carolina	14,759,838	591	15,632,769	578
Mooresville	2,357,594	333	2,529,389	384
United of the Carolinas	16,112,040	507	18,901,514	546
North Carolina	13,419,782	741	15,476,393	774

Company	Total Plant 1971	Per Station 1971
Lexington	$ 9,412,748	$534
Thermal Belt	3,071,126	587
Norfolk & Carolina	18,347,237	626
Mooresville	4,040,684	503
United of the Carolinas	22,624,741	601
North Carolina	17,796,889	799

I would like to show some other comparative data between North Carolina and Norfolk & Carolina, because these companies are quite similar in make-up.

TOTAL TELEPHONES YEAR END

	1968	1969	1970	1971
Norfolk & Carolina	23,119	24,993	27,062	29,301
North Carolina	16,488	18,118	20,000	22,273

TELEPHONE DENSITY
PER SQUARE MILE OF SERVICE AREA

	1968	1969	1970	1971
Norfolk & Carolina	12.7	13.7	14.9	16.1
North Carolina	12.4	13.7	15.1	16.8

TYPICAL RATES

Norfolk & Carolina:	Business 1-Pty.	Residential 1-Pty.
Elizabeth City (Albemarle Metro.)	$11.50	$ 6.25
Gatesville	10.00	5.50
Manteo	7.50	5.00

North Carolina:	Business 1-Pty.	Residential 1-Pty.
Matthews (Charlotte EAS)	19.60	9.80
Waxhaw (Charlotte EAS)	20.45	12.45

Wadesboro	15.60	7.80
Pinebluff	16.50	8.25

RATE OF RETURN ON NET PLANT
(Year end - Unaudited)

	1968	1969	1970	1971
Norfolk & Carolina	5.63%	5.49%	7.10%	7.11%
North Carolina	6.08%	6.26%	6.33%	5.73%

For an even more painful comparison, let us look at how North Carolina's Wadesboro customers fare compared to their neighbors and nearby Rockingham, served by Southern Bell:

	Calling Scope	Business 1-Pty. Rate	Residential 1-Pty. Rate
Wadesboro	6,000	$15.60	$7.80
Rockingham	10,000	10.70	4.75

All these comparisons indicate that something is badly wrong with North Carolina Telephone Company. The rebuttal to this kind of analysis is, of course, that it does not tell the whole story and that there are many factors or reasons or explanations involved in these drastic variances in investment, rates, etc. Exactly. To be sure, there are many other facets; many other questions which need to be answered, and none of them are answered in the Majority Order. To be more precise, these many other questions have not been asked, so it is hardly likely that the answers are available. The Majority Order is superficial -- it does not come close to dealing with the heart of the problem. Where, for instance, does it deal with the question of the reasonable original cost of North Carolina's properties? Where does it deal with the question of sound management? Where does it deal with the question of a viable capital structure? Where does it deal with how a return of 5.16% return on equity will enable North Carolina to attract funds in the capital market?

On the question of service, I cannot express my dismay at the frivolous optimism of the Majority Order. The Majority has prescribed a couple of aspirin for a sick company in need of major surgery. I predict that this prescription will: (1) not cure the company; and (2) will make its customers sick.

In conclusion, I fear the effects this Order may have on the telephone industry in this State. When other companies look at all the mistakes that North Carolina Telephone Company has made and how this Commission tolerates its mismanagement, what will happen to the incentive of others to provide "adequate, economical and efficient" telephone service?

Hugh A. Wells, Commissioner

DOCKET NO. P-55, SUB 650

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Southern Bell Telephone and Telegraph Company for Authority to Adjust its Rates and Charges for Telephone Service in its Service Area within North Carolina	) ORDER CLOSING DOCKET UPON REMAND

Upon consideration of the record herein and the decision of the North Carolina Court of Appeals herein, in Util. Comm. v. Telephone Co., 15 N.C. App. 41 (1972), remanding the above decision to the Utilities Commission for further proceedings, and the Stipulation Upon Remand filed herein on October 17, 1972, by counsel for all parties of record in the proceeding, stipulating that this proceeding is now moot due to the subsequent Application of Southern Bell Telephone & Telegraph Company for rate increase in Docket No. P-55, Sub 681, and the Order of the Commission issued therein on June 30, 1972, fixing new rates for Southern Bell on a more recent test period than that under investigation in this docket, and good cause appearing to close this docket upon stipulation of all parties of record that all matters and things remanded to the Commission in this proceeding are now moot because of said subsequent rate increase proceeding,

IT IS, THEREFORE, ORDERED that all matters and things remanded to the Commission in this proceeding are found to be moot due to later proceedings on the same subject matter, and the docket herein is closed.

ISSUED BY ORDER OF THE COMMISSION.

This 18th day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-55, SUB 681

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application of Southern Bell Telephone and Telegraph Company for Authority to Adjust its Rates and Charges for Telephone Service in its Service Area Within North Carolina	) ORDER GRANTING PARTIAL INCREASE

HEARD IN: Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, March 7, 8, 9, 10, 14, 15, 16, 17, 23 and 24, 1972.

BEFORE: Chairman Harry T. Westcott, Presiding; Commissioners John W. McDevitt, Marvin R. Wooten, Miles H. Rhyne, and Hugh A. Wells.

APPEARANCES:

For the Applicant:

R. C. Howison, Jr.
Joyner & Howison
Wachovia Bank Building
Raleigh, North Carolina
Appearing for:
Southern Bell Telephone & Telegraph Company

John F. Beasley
Attorney at Law
Legal Department
Southern Bell Telephone & Telegraph Company
1245 Hurt Building
Atlanta, Georgia 30303
Appearing for:
Southern Bell Telephone & Telegraph Company

Harvey L. Cosper
Attorney at Law
Southern Bell Telephone & Telegraph Company
P. O. Box 240, Charlotte, North Carolina 28201
Appearing for:
Southern Bell Telephone & Telegraph Company

For the Protestants:

I. Beverly Lake, Jr.
Assistant Attorney General
Attorney General's Office
Revenue Building
Raleigh, North Carolina
Appearing for: The Using and Consuming Public

For the Intervenors:

Dellon E. Coker
Attorney at Law
Regulatory Law Office
Office of the Judge Advocate General
Department of the Army
Attn: DAJA - RL
Washington, D. C. 20310
Appearing for:
Department of Defense and all other Executive Agencies of the United States

For the Commission Staff:

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

BY THE COMMISSION: On October 15, 1971, Southern Bell Telephone & Telegraph Company, P. O. Box 240, Charlotte, North Carolina 28201 (hereinafter called "Southern Bell"), filed an Application with the Commission for authority to increase its local monthly telephone rates, centrex rates, private line services, supplemental service, and long distance message service. The Application sought increases totalling $26,424,989 in annual gross revenues during the test period ending July 31, 1971. The increases stated in amounts of additional annual revenue for the respective rates applied for are as follows:

ANNUAL REVENUE INCREASE

Description	Proposed Annual Revenue Increase
Basic Local Service	$18,124,717
Centrex Service	638,405
Private Line Service	266,130
Supplemental Services and Equipment	2,254,891
Long Distance Message Telephone Service	5,140,849
TOTAL	$26,424,989

The increases proposed in monthly telephone rates vary for the 92 local exchanges served by Southern Bell in North Carolina in accordance with exchange rate groupings based upon the calling scope or number of telephones within the calling scope of each local exchange. The increases proposed, compared with present telephone rates, with the resulting increase applied for, for the eight rate groupings based upon exchange size, are as follows:

EXCHANGES BY RATE GROUPINGS

	Residence				Business			
	Ind.	2-Pty	4-Pty	Rural	Ind.	2-Pty	4-Pty	Rural
Group 1 (0-7,000 MS&T)								
Present	$4.55	$3.60	$3.10	$3.10	$ 9.95	$ 8.80	$ 8.00	$ 8.00
Proposed	6.20	5.00	4.30	4.30	14.20	13.00	10.75	10.75
Increase	1.65	1.40	1.20	1.20	4.25	4.20	2.75	2.75
Group 2 (7,001-12,000 MS&T)								
Present	4.75	3.75	3.20	3.20	10.70	9.55	8.60	8.60
Proposed	6.40	5.15	4.45	4.45	14.95	13.75	11.35	11.35
Increase	1.65	1.40	1.25	1.25	4.25	4.20	2.75	2.75
Group 3 (12,001-22,000 MS&T)								
Present	4.95	3.95	3.35	3.35	11.45	10.30	9.20	9.20
Proposed	6.60	5.35	4.60	4.60	15.70	14.50	11.95	11.95
Increase	1.65	1.40	1.25	1.25	4.25	4.20	2.75	2.75
Group 4 (22,001-33,000 MS&T)								
Present	5.20	4.15	3.50	3.50	12.20	11.05	9.80	9.80
Proposed	6.80	5.55	4.75	4.75	16.45	15.25	12.55	12.55
Increase	1.60	1.40	1.25	1.25	4.25	4.20	2.75	2.75
Group 5 (33,001-48,000 MS&T)								
Present	5.45	4.35	3.65	3.65	12.95	11.80	10.40	10.40
Proposed	7.05	5.75	4.90	4.90	17.20	16.00	13.15	13.15
Increase	1.60	1.40	1.25	1.25	4.25	4.20	2.75	2.75
Group 6 (48,001-75,000 MS&T)								
Present	5.65	4.55	3.80	3.80	13.95	12.55	11.15	11.15
Proposed	7.30	5.95	5.05	5.05	18.20	16.75	13.90	13.90
Increase	1.65	1.40	1.25	1.25	4.25	4.20	2.75	2.75
Group 7 (75,001-115,000 MS&T)								
Present	5.90	4.75	4.00	4.00	15.45	14.05	12.25	12.25
Proposed	7.55	6.15	5.25	5.25	19.70	18.25	15.00	15.00
Increase	1.65	1.40	1.25	1.25	4.25	4.20	2.75	2.75
Group 8 (115,001 Up MS&T)								
Present	6.15	4.95	4.20	4.20	16.95	15.55	13.35	13.25
Proposed	7.80	6.35	5.45	5.45	21.20	19.75	16.10	16.10
Increase	1.65	1.40	1.25	1.25	4.25	4.20	2.75	2.85

MS&T: Main Stations and PBX Trunks

Cities and towns in North Carolina served by Southern Bell, as placed within the above rate groupings for the rate increase applied for, are as follows:

EXCHANGES BY RATE GROUPINGS

Exchange	MS&T*	Pres. Group	Prop. Group
Bolton	1,466	1	1
Locust	1,724	1	1
Long Beach	1,835	1	1
Southport	1,835	1	1
Atkinson	2,408	1	1
Burgaw	3,512	1	1
Taylorsville	5,714	1	1
Newland	6,138	1	1
Gibson	6,177	1	1
Blowing Rock	6,553	1	1
Spruce Pine	6,665	1	1
Laurinburg	7,440	2	2
Boone	7,873	2	2
Selma	8,510	2	2
Hamlet	10,032	2	2
Rockingham	10,931	2	2
Claremont	11,702	2	2
Lenoir	13,091	3	3
Fairmont	13,385	3	3
Lumberton	13,385	3	3
Pembroke	13,385	3	3
Rowland	13,385	3	3
Canton	14,177	3	3
Clyde	14,177	3	3
Maggie Valley	14,177	3	3
Waynesville	14,177	3	3
Caroleen	14,251	3	3
Ellenboro	14,251	3	3
Forest City	14,251	3	3
Morganton	14,890	3	3
Rutherfordton	15,276	3	3
Lincolnton	15,285	3	3
Troutman	15,465	3	3
Lattimore	16,285	3	3
Lawndale	16,285	3	3
Cleveland	17,552	3	3
Reidsville	17,720	3	3
Ruffin	17,720	3	3
Statesville	17,848	3	3
Stony Point	18,719	3	3
Grover	18,882	3	3
Denver	19,318	3	3
Maiden	20,126	3	3
Hendersonville	20,172	3	3
Grantham	21,101	3	3

Lake Lure	21,836	3	3
Mount Olive	23,695	4	4
Cherryville	23,701	4	4
Milton	24,357	4	4
Gatewood	24,619	4	4
Salisbury	24,855	4	4
Shelby	25,333	4	4
Goldsboro	26,380	4	4
Acme	28,964	4	4
Newton	30,047	4	4
Carolina Beach	30,502	4	4
Castle Hayne	31,587	4	4
Scotts Hill	31,602	4	4
Wrightsville Bch	31,776	4	4
Kimesville	32,029	4	4
Wilmington	34,056	4	5
Leicester	34,094	5	5
Burlington	34,923	5	5
Saxapahaw	34,923	5	5
Anderson	36,239	5	5
Bessemer City	37,536	5	5
Enka-Candler	37,681	5	5
Black Mountain	37,928	5	5
Swannanoa	37,928	5	5
Lowell	41,727	5	5
Stanley	41,727	5	5
Fairview	41,919	5	5
Kings Mountain	44,202	5	5
Gastonia	46,698	5	5
Asheville	51,196	6	6
Arden	52,734	6	6
Monticello	73,321	6	6
Summerfield	73,321	6	6
Apex	74,801	6	6
Cary	74,801	6	6
Knightdale	74,801	6	6
Wendell	74,801	6	6
Zebulon	74,801	6	6
Greensboro	74,975	6	6
Julian	74,975	6	6
Winston-Salem	80,572	7	7
Raleigh	82,029	7	7
Davidson	130,272	8	8
Huntersville	130,272	8	8
Charlotte	144,661	8	8
Belmont	165,913	8	8
Mount Holly	165,913	8	8

*Main Stations and PBX Trunks in Local Calling Area as of July 31, 1971

The calling scope used for assigning exchanges to the above groups includes extended area service, thus placing small exchanges having extended area service with larger exchanges in the higher rate group applicable to the combined calling scope of the exchanges in the toll-free calling area.

The Commission being of the opinion that the Application affected the interest of the consuming public in the areas of North Carolina served by Southern Bell, by Order entered on November 8, 1971, suspended until further Order of the Commission the proposed effective date of Southern Bell's requested increases, declared the proceeding to be a general rate case under G.S. 62-133, and set the matter for hearing in Raleigh, North Carolina, on March 7, 1972. Notice of the Application and the date of hearing were published in newspapers of general circulation within the Southern Bell service area. The Order of November 8, 1971 separated the proposed toll rate increases from the Southern Bell docket and assigned them for investigation in a general investigation of toll rates in North Carolina by the following ordering provision:

"7. That Bell's application for increased long distance telephone service (toll) rates is hereby separated from this docket and made a separate proceeding in a new docket P-100, Sub 28, except as toll revenue contributes to Bell's return."

Petitions to Intervene were filed and duly allowed for Robert Morgan, Attorney General, for and on behalf of the using and consuming public of North Carolina, and Dellan E. Coker on behalf of the Department of Defense and all other Executive Agencies of the United States.

The public hearing began in Raleigh, North Carolina, on March 7, 1972, and extended through March 24, 1972.

During the hearing, the applicant Southern Bell offered testimony and evidence as follows:

A. Max Walker, Vice President and Treasurer of Southern Bell, identified exhibits and offered testimony concerning a fair rate of return applicable to Southern Bell and the overall intrastate earnings requirement necessary to finance future growth. Mr. Walker testified that the cost of Bell System debt sold in 1971 was generally in a range from 7-1/2% to 8% and the imbedded cost of debt capital as of July 31, 1971 was 5.9%; that the last issue of bonds of Southern Bell in the amount of $100,000,000 cost 7.67% interest rate on August 24, 1971, which is down from the high rate of 9.13% interest on $150,000,000 of bonds sold June 30, 1970; that as long as new issues cost more than the imbedded cost, the imbedded costs will continue to rise; that a fair rate of return on Bell System assumed capital structure of 57.5% equity "repriced" in current dollars is 10.3%; that at this time the overall fair rate of return for

use with a fair value rate base is 8.38%; that the fair value of property devoted to North Carolina intrastate operations amounts to $472,000,000; net income of $39,550,000 would produce a fair rate of return applicable to fair value of the telephone property; that the deficiency in net operating income is $14,625,000, and gross rate increases to Southern Bell required to produce the net operating income of $14,625,000 would be $26,475,000, to produce a return of 8.38%.

Dr. Robert S. Stich, Professor of Finance and Business Policy at the University of Missouri, identified exhibits and offered testimony as to a fair rate of return to Southern Bell on the properties subject to the jurisdiction of the North Carolina Utilities Commission. Dr. Stich testified that for application to an original cost rate base, 12.5% is the opportunity cost of equity capital to AT&T which, when adjusted, is 10.65% on the adjusted equity cost applicable to the equity portion of capital for use with a fair value rate base; that as of July 31, 1971, 10.65% is the cost of equity for application to a fair rate base; that 8.48% is the fair rate of return applicable to the fair value rate base of Southern Bell in this proceeding.

Archie K. Davis, Chairman of the Board of Directors of Wachovia Bank and Trust, N.A., Winston-Salem, North Carolina, and a director of the American Telephone and Telegraph Company, and a former director of the Western Electric Company, testified that adequate and dependable communications and power are essential to attract new businesses into North Carolina, as well as to provide for the growing needs of existing industry; to fulfill these obligations, utilities will need to raise and expand extraordinary sums of new capital; that over the next several years interest rates on long term corporate bonds remaining high, the demand for new long term capital being staggering, and the psychology of inflationary expectations unlikely to be broken; that for a company to attract the type of new capital for which it is competing, profitability is the most pertinent answer; that Southern Bell and other utilities should be given the opportunity of obtaining a reasonable margin between revenues and costs in order to compete effectively for the capital necessary to fulfill the service obligations which their customers, including the State of North Carolina, are asking of them.

Kirby G. Pickle, General Accountant for Southern Bell, identified exhibits and offered testimony as to the North Carolina properties used and useful in furnishing telephone service, the original cost of the properties, the revenues received and expenses, including taxes incurred in furnishing telephone service, the original cost of the properties, the revenues received and expenses, including taxes incurred in furnishing telephone service. Mr. Pickle testified that $482,040,421 is the amount of plant in service assigned to North Carolina intrastate operations;

that $503,514 is the amount of property held for future use; that $2,615,114 is material and supplies; that $777,424 is cash working capital; that $485,936,473 is the total original cost of properties used and useful in furnishing intrastate telephone service in North Carolina as of July 31, 1971; that $109,117,077 is the depreciation reserve as of July 31, 1971; that $376,819,396 is the intrastate portion of North Carolina's total original cost of properties less that part which has been consumed by previous use and recovered by depreciation expense; that total intrastate revenues for North Carolina for the year ending July 31, 1971 were $144,059,630; that for the same year the total intrastate operating expenses and taxes were $120,606,982; that for the year ended July 31, 1971, the intrastate net operating income was $23,452,648 and adjusted net operating income on a going level basis was $27,230,502.

Mr. John D. Russell, Group Vice President of the American Appraisal Company, testified substantially as follows:

That his Company's responsibility was to furnish to Southern Bell Telephone and Telegraph Company accurate building cost of its buildings and portions of its underground conduit, buried cable and pole lines in North Carolina. American Appraisal furnished Southern Bell with cost indexes applicable to the thirteen (13) major components of buildings and to the contract construction portion of its underground conduit, buried cable and pole line accounts in North Carolina. This information was developed in connection with the proceeding in Docket No. P-55, Sub 650 and it was necessary to furnish only those indexes required to continue the trending process forward to July 31, 1971. This involved the preparation of index numbers for the additional period. The manner in which these indexes were developed and the procedures followed were precisely the same as those followed in connection with Docket No. P-55, Sub 650. Mr. Russell's evidence and exhibits from the proceeding in Docket No. P-55, Sub 650 were entered as evidence and adopted as his testimony in this proceeding.

Dr. Charles H. Proctor, Professor at North Carolina State University in the Department of Statistics, testified that he had been engaged by Southern Bell Telephone and Telegraph Company for the purpose of prescribing procedures for the scientific selection of samples of buildings and manholes to enable Southern Bell to develop certain cost indexes. The purpose of this testimony was to describe the statistical method by which the samples were drawn and to explain to the Commission the validity of the sampling procedures used in connection with the matter before it in Docket No. P-55, Sub 650. Dr. Proctor's testimony and exhibits, entered into the record in Docket No. P-55, Sub 650, were entered as Exhibit No. 1 in this proceeding and adopted as his testimony in this case.

Mr. William P. Thornton, Price Manager of the Western Electric Company, testified that he had been requested by Southern Bell to furnish it with index numbers which show the movement of prices for the various types of central office equipment obtained from the Western Electric Company and utilized by Southern Bell in the provision of telephone service in North Carolina. The purpose of his testimony in that proceeding was to describe to the Commission the manner in which the indices were developed and to show that they were applicable to the central office plant of Southern Bell in North Carolina. His testimony and exhibits in the proceeding in Docket No. P-55, Sub 650 were entered into evidence and adopted as his testimony in this proceeding. Additional information has been supplied to Southern Bell for use in connection with its determination of replacement cost in the present case. Index numbers were furnished to Southern Bell which are applicable to the same items of central office equipment as those index numbers furnished in Docket No. P-55, Sub 650. The index numbers provided in that proceeding were valid through January 1, 1970, so Southern Bell needed only those index numbers required to continue the trending process forward to July 31, 1971. The manner in which these indexes were developed and the procedures followed toward such development were the same as those utilized and described in connection with Docket No. P-55, Sub 650.

On cross examination, Mr. Thornton testified that changes in the design of central office equipment have been made to improve performance or to reduce costs. In the aggregate Western Electric prices to Bell companies for apparatus and equipment over the past 20 years have decreased; that the index numbers constitute a statistical method of showing changes in the price levels of central office equipment from one date to another. The figure of $145,311,346 from Mr. Pickle's testimony covering the intrastate portion of central office equipment in North Carolina is all subject to the price indexes. Outside plant and station equipment are not included in these price indexes. There is no consideration given in these indexes of the Western Electric tax deferral.

Mr. Ralph H. Proffitt testified that the purpose of his testimony in that docket was to relate to the Commission the amount of the replacement cost of Southern Bell's intrastate property used and useful in furnishing telephone service in North Carolina as of June 30, 1970. The replacement cost of the property as of that date was $444,657,650. That cost was determined by trending the reasonable depreciated cost of Southern Bell's applicable plant to current cost levels by use of proper index numbers. Mr. Proffitt's direct testimony and exhibits from the proceeding in Docket No. P-55, Sub 650, were introduced into evidence in this proceeding. The replacement cost as of July 31, 1971 (end of the current test period) was found to be $495,879,342. This figure did not include any amount attributable to telephone plant under construction. If it had included

telephone plant under construction, the applicable figure would have been $520,407,511. These figures were determined using exactly the same procedures as used in Docket No. P-55, Sub 650 and using the index numbers for the latter period as furnished by Messrs. Russell and Thornton the replacement cost as of January 1, 1971 was determined. In order to ascertain the applicable replacement cost as of July 31, 1971, known changes in the cost of material, labor and installation were used. Also taken into consideration were additions and removals from plant.

On cross examination, Mr. Proffitt testified that in the testimony from Docket P-55, Sub 650 the book depreciation reserve amounted to $124,769,928 while the theoretical reserve amounted to $120,265,176. The theoretical reserve measures the amount that should now be in the reserve if the life and net salvage on which the current depreciation rates are based turned out to have been correctly estimated. The depreciation rate of each account represents an average of all the items in that account. Some items will stay in service longer than their estimated plant life and some items will stay in service less than their estimated plant life. Each item is not deducted from the rate base until it is taken out of service. The depreciation reserve was not trended upward by the same percentage as the original cost of plant in service. If the depreciation reserve were trended upward by the same percentage as the plant in service, the trended depreciation reserve would be roughly $155,000,000 instead of $150,700,000. Obsolete equipment that is still in service was trended upward according to the cost that would be incurred to replace it with similar equipment today; that this study is made specifically for the purpose of this rate proceeding and little or no other use is made of it. The validity of the results can be ascertained by comparing them with other indexes such as the CPI. The indexes in the trending study have built in allowances for improved productivity and efficiency. Cost and feasibility studies are performed somewhat independently for each new project to determine if it is economically feasible and to determine the most economical way of undertaking it. In most instances a 20-year study is made.

Mr. Robert E. Fortenberry, Assistant Vice President of Southern Bell Telephone and Telegraph Company, testified that the purpose of his testimony was to present Southern Bell's fair value rate base to which a fair rate of return may be applied in computing the North Carolina intrastate earnings requirement of the company. After giving consideration to the depreciated original cost and replacement cost along with other factors, such as the characteristics of the territory served, characteristics of the company, and condition of the plant, the overall fair value of the company's properties was arrived at and correspondingly the company's intrastate rate base in this proceeding. The original combined cost of the company's properties in North Carolina was $655,524,128, and the original cost of the intrastate portion was $485,936,473.

The depreciated original costs were $503,341,581 and $376,819,396, respectively. In connection with the present case, Mr. R. H. Proffitt determined the replacement cost of the plant in North Carolina at cost levels prevailing as of July 31, 1971. This replacement cost was obtained from Mr. Proffitt and used in connection with determination of the present fair value. The replacement cost from Mr. Proffitt's testimony was $495,879,324. This figure was checked by the following test. The aged distributions of the depreciated original cost were trended to July 31, 1971, cost levels by using the Consumer Price Index of the U.S. Bureau of Labor Statistics. The CPI is generally recognized as being the most widely used price index for measuring the general purchasing power of the dollar. The results of this test indicate that the present worth of all the dollars invested in the properties used for the intrastate service in North Carolina, less plant under construction and less the dollars recovered by depreciation expense, is $493,696,637 as of July 31, 1971. Another test performed was to trend the depreciated original cost by use of the gross national product implicit price deflators published by the U. S. Government Department of Commerce. This test indicates a present worth of all the dollars invested of $494,677,262 as of July 31, 1971; that the replacement cost is not the same as the fair value. Other factors must be taken into account. The suitability of the plant as presently built must be taken into consideration in meeting current service requirements and standards. He concluded that the plant adequately performs the function for which it was built. The loss in service value incurred in connection with the consumption or prospective retirement of plant in the course of its service from known causes in current operation are already reflected in the depreciation reserve to the extent the regulatory bodies have given recognition to their effect and have allowed depreciation rates to recover.

The impact of technology and other changes on the value of the property has to be considered. There are several instances where the plant in place will never be utilized to its fullest capacity, such as cables with conductors of larger gauge than necessary to meet service requirements or instances where two or more cables have been placed on a pole line where one larger cable would require less maintenance. Such instances were considered in arriving at the present fair value. Approximately $11,000,000 could have been saved in the present replacement cost, and this was taken into consideration in determination of the present fair value of the property; that weight should be given to original cost only to the extent that a return to original price levels appears reasonably imminent; that after consideration of the original cost of plant in service, and the replacement cost, less present value of depreciation, Mr. Fortenberry concluded that $472,000,000 is the fair value of the company's intrastate properties in North Carolina as of July 31, 1971.

Mr. Charles H. Garity, Assistant Vice President of Southern Bell Telephone and Telegraph Company, testified that the company has proposed to increase the rate for PBX trunks from one and one-half times the business 1-party rate to 1.6 times the business 1-party rate. Also proposed are increases in Centrex service arrangements. The increases in settlements to the independent companies as a result of a toll rate increase and as a result of a revenue increase to Southern Bell has been taken into account in the rate case data. The $26,425,000 increase request includes $5,125,000 which would be paid out in increased settlements to the independent companies. The increased toll rates were proposed to cover the costs of the increased settlements to the independent companies. The increases proposed on residence extension telephones, Princess sets and Touch Tone service were to help keep the basic service rates as low as possible. The proposed rates for these services would more than meet the cost of those individual items, and thus they would make what would be called a contribution to the basic service. The extended area service premium differential now being applied in the towns of Acme, Lake Lure, Newland, Spruce Pines, Wendell and Zebulon have been applicable for some years because of the more than normal distance involved in these situations. The amount of the differential is based on how many miles in excess of fourteen that are between the two exchanges desiring EAS.

On cross examination, Mr. Garity testified that Bell's revenue increase request was reduced because of the additional revenue received when the independent telephone companies' toll rates were increased in December of 1971; that in 1971, the net effect of the major rate case was an 8.03% increase; that settlements with most of the independent telephone companies in North Carolina are based on Southern Bell's North Carolina intrastate rate of return; that it would make more sense to settle on the basis of the intrastate toll rate of return.

Mr. John J. Ryan, Vice President and General Manager of Southern Bell Telephone and Telegraph Company in North Carolina, testified that Southern Bell has continued to experience rapidly growing public demands for telephone service in the face of increased cost of providing these services. He stated that the growing cost of furnishing intrastate telephone services in North Carolina and the continuing effect of inflation are factors which make present rates and charges for services inadequate. Mr. Ryan testified that the demand for new service has reached an all-time high in 1971, and the company's rate of growth continues to increase. He testified that by August 1971, 100% of all main stations in North Carolina will have access to direct distance dialing. He testified that Southern Bell spent $102,900,000 during 1971 for capital additions. He further stated that during 1971 local calls had risen to 7,536,625 per day. He further stated that toll calls for the year 1971 had risen to 139,563,000. He then testified

that the present level of rates was totally inadequate to support the capital expenditures.

On cross examination, Mr. Ryan testified that the percentage increase in capital expenditures during 1970 and 1971 was about 7%; that savings in maintenance expense and the aesthetic consideration would be two of the principal factors in placing cable underground; the witness then testified concerning increased operating costs and interest cost on debt and cost of purchases from Western Electric, Southern Bell's earnings per share in 1970 and 1971, the wage agreement and the annual impact of the new wage contract on intrastate operating expenses for 1971 and 1972, price comparisons made by the operating telephone companies, and the operating companies' purchases of equipment from suppliers other than Western Electric.

In rebuttal evidence, Southern Bell offered testimony as follows:

Paul Garfield, Washington, D. C., Consultant from Foster Associates, testified that public utilities need a growth in earnings to attract capital, and that the return conclusions of Staff Consultant, Charles Schotta, would not produce sufficient growth in earnings.

Witness Walter C. Smith, in Southern Bell's Atlanta office, and former Bell Plant Manager in North Carolina, testified as an expert on the subject of traffic and plant service results for Southern Bell in North Carolina. Mr. Smith discussed the subscriber trouble reports per 100 stations index; the subsequent trouble index; the repeat reports index; out-of-service trouble reports received before 5 P.M. and carried over; the percent of regular station installations completed within five days; the failure rate on inter-office calls and the operator answer time objective for toll and directory assistance.

The following Bell Company witnesses testified regarding intercorporate relations between Southern Bell and affiliated Bell system companies; John K. Christensen, License Contract Services and Costs; Walter W. Sessoms, Value of License Contract; George J. Kamps, reasonableness of Western Electric prices; and Christopher F. Morgan, reasonableness of Western Electric earnings.

PUBLIC WITNESSES - DIRECT TESTIMONY

There were 7 public witnesses who testified concerning telephone service problems and opposition to the proposed rate increase. Mrs. Carroll A. Cox, an Apex subscriber, testified that she objected to an increase in telephone rates because she could not depend on her telephone working. Mrs. Michelle Eigen, an Apex subscriber, testified that she had experienced telephone service problems for 1-1/2 years in Apex, and she testified that she did not object to the rate increase as long as the service is what it should be.

Mrs. Sandra Whitmore, an Apex subscriber, testified that she has experienced telephone service problems in Apex for 3 years. The witness described the types of service problems she had experienced. She further testified that she was willing to pay for the true value of her telephone, but did not feel that during the last 3 years the telephone service warranted paying any more for it until something was done to make the telephone more reliable. Mrs. Susan Whiteman, an Apex subscriber, testified that her service was not adequate as far as the dependability and that subscribers could not depend on their telephones. The witness testified that she did not believe that an increase should be granted for Apex because they were not getting dependable service. Mrs. Joan Wine, an Apex subscriber, testified that she opposed the rate increase because of poor telephone service. Mr. James T. Byrd, Jr., Apex, testified concerning the service problems he had experienced. The witness testified that they need better telephone service. Mr. E. L. Hicks, Cary, described the type of service problems he has experienced.

Mr. Frank Leatherman, Raleigh, N.C., testified as Communications Consultant of the Department of Administration of the State of North Carolina. Mr. Leatherman testified that the State of North Carolina pays Southern Bell approximately $3,000,000 per year for local service and long distance service under the present rate. He further testified that the State of North Carolina paid Southern Bell $219,505.07 per month for local service as of March 13, 1972. Mr. Leatherman further testified that the total increase from the proposed rates would be $628,000 annually, an increase of 24%.

The Commission Staff offered testimony and evidence as follows:

Norman Peele, Commission Accountant, testified as to his examination of the books and records of the company insofar as the records pertain to North Carolina, with the examination covering the 12-month period ending July 31, 1971; that North Carolina intrastate operations yield a rate of return on net investment of 8.03% and approval of the proposed rate increase would increase the existing rate of return from 8.03% to 10.72%; that approval of the increased rates would increase the return on common equity from 9.34% to 13.28%; that the capital structure as of July 31, 1971, consisted of 35.93% debt (including long and short-term), 1.92% deferred income taxes and 62.15% common equity; that Southern Bell is a subsidiary corporation of American Telephone & Telegraph Corporation (AT&T) and the testimony of the Southern Bell witnesses is to the effect that the capital structure of Southern Bell is subject to control by AT&T as to the ratio of debt and equity invested in the financing of Southen Bell. At the end of the test period, Southern Bell derived 62.84% of its capital structure from common equity, 35.93% from long-term and short-term debt, and 1.92% from deferred income taxes based on $243,387,949 of equity and $140,733,881 of debt applicable to intrastate

service in North Carolina. At the same time, AT&T's percentage of debt in its capital structure had increased to approximately 45% debt and 55% equity.

Vern W. Chase, Chief Engineer of the Telephone Rate Division of the Commission, testified that the assignment of plant investment and expenses to state and interstate operations was found to be made in accordance with standard procedure set out in the Separations Manual as published by the National Association of Regulatory Utility Commissioners in the Federal Communications Commission; that no problem was found in the division of revenues between inter and intrastate operations; that as a result of toll settlement adjustments revenue was found to be understated during the test period by $1,127,178; that the incremental rates for special EAS involving the Acme, Lake Lure, Newland, Spruce Pines, Wendell and Zebulon exchanges should be eliminated and absorbed in the basic rates; that the amount of revenue involved would be $49,116 during the test period; that it was recommended that the $6.00 installation charge for Princess telephones should be eliminated and serious thought should be given to lowering the 65¢ surcharge to 50¢, rather than increasing it to 75¢; that during the test period the installation charged for Touch Tone produced $83,585, and for the Princess set $59,580; that it is recommended that the present charge for an extension telephone not be increased from $1.25 to $1.35. It was stated that in addition to the service connection charge there was also a $5.00 installation charge on a Touch Tone set and a $6.00 installation charge on a Princess set. The extra installation charge and surcharges for these types of sets serves as a deterrent to keep everybody from taking one. He recommended washing out the extra charge for EAS through the six exchanges mentioned earlier, but new applicants for EAS should, depending upon the circumstances, have to pay an extra charge for EAS.

Gene A. Clemmons, Chief Engineer of the Telephone Service Division of the Commission, testified and presented the results of the Commission Staff's review of telephone service provided by Southern Bell in North Carolina. He testified that the Staff made a review of service provided by Southern Bell in North Carolina during November and December 1971, and January 1972. He stated that this review consisted of making intraoffice test calls, interoffice test calls, direct distance dialing test calls, transmission and noise measurements on telephone trunks, measurements of operator and directory assistance answers at certain toll centers, a review of held orders and regrades, a review of trouble reports, service installation results, a review of traffic study data, a review of plant facilities and measurements of subscriber loops. He then reviewed the results of the Staff investigation and analysis relating to service provided by Southern Bell. He described the types of evaluations made and the results produced during those evaluations. His conclusions were that the intraoffice and interoffice test call results were within acceptable limits;

that the DDD test call failures were within acceptable limits; that the DDD transmission measurements were higher than a reasonable objective; DDD noise measurements were within a reasonable objective; EAS noise and transmission measurements were within an acceptable range; that the Staff's study of manual toll and directory assistance operator answer time was within an acceptable limit, except for Wilmington; that the percentage of public pay stations found out of service was within acceptable limits; that the subscriber trouble reports per 100 stations for the overall company was within an acceptable range; that the company should re-emphasize its procedures for maintaining the quality of subscriber loops; that the company has relieved central office equipment shortages in many offices, but there are still some offices which need relief; that the percentage of subsequent, repeat and out-of-service trouble reports received before 5 P.M. and carried over continues to be too high, the percentage of regular company appointments not met and negotiated installations completed within 5 days should be improved.

Charles Schotta, Blacksburg, Virginia, Associate Professor of Economics at Virginia Polytechnic Institute and State University, testified as a Staff witness on rate of return, and based on his studies using a modified comparable earnings test, concluded that the cost of equity capital to AT&T and to Southern Bell, is between 9.0% and 9.5%, centering on 9.25%. The study included exhibits showing the historical cost of equity to AT&T.

The Attorney General offered the testimony and exhibits of David A. Kosh, Consultant in rate of return, Washington, D.C., who concluded from studies made on the discounted cash-flow method that the cost of equity capital to AT&T, and thus to Southern Bell, is 10.25%.

All of the exhibits identified by the respective witnesses were received into evidence, except those portions thereof stricken upon objection made as shown in the record.

Based upon the entire record of the proceeding, including testimony and exhibits, the Commission makes the following

FINDINGS OF FACT

1. Southern Bell is a duly franchised public utility providing telephone service to its subscribers in 92 local exchanges in North Carolina extending from Haywood County and Waynesville on the west through major cities and counties in the Piedmont area of North Carolina and into the east, including New Hanover County and Wilmington, North Carolina; and is a duly created and existing corporation authorized to do business in North Carolina and is properly before the Commission in this proceeding for a determination as to the justness and reasonableness of its rates and charges regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. The total increases in rates and charges as filed by Southern Bell in this docket on October 15, 1971, would produce $29,650,000, amended by later testimony to $26,424,989, in additional gross annual revenue to Southern Bell, subject to adjustments for settlements which would accrue to independent telephone companies in North Carolina under the settlement procedures for division of toll revenues between Southern Bell and the independent telephone companies connecting with the Southern Bell and independent company long distance toll network in North Carolina.

3. The test period utilized by all parties in this proceeding was the 12-month period ending July 31, 1971.

4. The original cost of Southern Bell's investment in telephone plant in service in its four state company-wide service area of Georgia, Florida, South Carolina and North Carolina on July 31, 1971, was $3,696,293,201, of which $650,405,182 was invested in North Carolina, less depreciation reserve of $152,182,547, for a net investment of telephone plant in service in the State of North Carolina of $498,222,635. Of the total plant in service in North Carolina, $481,900,458 was devoted to intrastate service under rates subject to the jurisdiction of the Utilities Commission, constituting intrastate plant in service in North Carolina on July 31, 1971, less reserve for depreciation of $109,117,077, with a net investment in intrastate telephone plant in service in North Carolina on July 31, 1971, of $372,783,381.

5. The present capital structure of Southern Bell of 28.4% long-term debt, 7.53% short-term debt, 1.92% deferred income taxes and 62.15% common equity is not a reasonable capital structure for a public utility operating in North Carolina, and is based almost entirely upon the operation of Southern Bell as a subsidiary of American Telephone & Telegraph Company. Said ratio of 62.15% common equity would be excessive for an independent public utility, and would cause an undue expense on the customers of Southern Bell if it were adopted as the capital structure to be supported in this rate proceeding, and is not representative of the capital structure of the parent American Telephone & Telegraph Company nor of the system-wide Bell associated companies. In accordance with the expert testimony of financial experts for both the applicant Southern Bell and the Commission Staff and protestants, the Commission finds and adopts for this proceeding an assumed capital structure of 55% common equity and 45% combined short-term, long-term debt, and adjusts the cost of capital in accordance with said finding of a reasonable capital structure, resulting in adjustments to interest expense, income taxes, tax accruals, and amount of equity to be covered by the return.

6. Reasonable materials and supplies required for the operation of intrastate business in North Carolina are $2,607,558. Reasonable cash-working capital requirements are $778,001. There was available at the end of the test

period $10,869,179 of tax accruals available for use as working capital, with a total net working capital requirement provided by Southern Bell in the rate base requirements of minus $7,483,620 ($7,483,620).

7. The combined net investment in plant in service and working capital allowances at the end of the test period July 31, 1971, adjusted as hereinafter described, is $365,299,761.

8. That Southern Bell's total operating revenues in intrastate commerce in North Carolina during the test period under the present rates were $158,580,206; that reasonable operating expenses for said intrastate service for the test period at the present rates, adjusted as hereinafter found reasonable, are $129,804,782; leaving net operating income of $28,775,424, adjusted for end of period income of the plant in service by additional net income of $1,049,382, with net operating income adjusted for the test period of $29,824,726.

9. That the ratio of net income under the present rates as applied to the net investment in telephone plant of $365,813,461, including working capital as adjusted for tax accruals before the adjustments for assumed 55% equity in the capital structure, is 8.03%.

10. The Commission finds that the replacement cost of Southern Bell's plant in intrastate service at the end of the test period, as derived by trending the original cost to current cost levels, depreciated, is $495,879,342.

11. Considering the original cost, less depreciation, of $372,783,381, and considering the replacement cost as derived by trending the original cost to current cost levels at $495,879,342, and the Commission finding that in many places the present plant equipment has served its useful life based upon obsolescence and is being replaced with modern equipment to provide better service and to require less employees per main station, and that the trended method employed by Southern Bell witnesses trends up the actual bricks, wires, poles and equipment as originally installed without regard to modern design, and the Commission being of the opinion that equal weight should be given to said original cost and replacement cost, the Commission finds that the fair value of the applicant's property used and useful in rendering intrastate telephone service to its North Carolina subscribers, is $427,231,561.

12. That the ratio of net income under the present rates as applied to the net investment in telephone plant adjusted to $366,024,562 (after adjustments for FICA and 55% equity), is 8.15%, and the rate of return on fair value of Bell's property used and useful in intrastate service is 6.98%.

13. After fixed charges on bonds and short-term notes of $8,237,719 for the test period as allocated to the North

Carolina intrastate operation, there remains under the present rates, before adjustments, net income for equity of $22,723,775. The common equity investment in intrastate service in North Carolina at the end of the test period was $243,387,949 under the actual capital structure, producing a return on the fair value of the applicant's property used and useful in rendering intrastate telephone service in North Carolina at the end of the test period of 9.34%, and after accounting adjustments and the adjustment of the capital structure to 55% equity and 45% debt, the net income for common stockholders would be $21,440,281, with common equity investment in intrastate service of $215,412,755, producing a return on assumed common equity under the present rates of 9.95%.

14. Considering economic conditions as they exist, the Commission finds that the return on common equity of 9.34% on actual and 9.95% on assumed capital structure is insufficient to compete in the market for capital funds on terms which are reasonable and which are fair to the company's customers and its existing investors, or to permit applicant to maintain its facilities and services in accordance with its reasonable requirements of its customers in the territory covered by its franchise.

15. The rate of return deemed necessary on the fair value of the applicant's property devoted to intrastate service in North Carolina under sound management to produce a fair profit to stockholders, considering economic conditions as they exist and permitting applicant to maintain facilities and service and further permitting applicant to expand its service in accordance with the standard set by the Commission, is 7.51%; that to earn said rate of return on fair value will require additional annual gross revenue to Southern Bell of $4,983,180, based on test period operation, after adjustments for revenues and expenses based on the plant and equipment in operation at the end of the test period; that to produce said additional revenues to Southern Bell will require an increase in annual revenues of $6,125,684 in total rate increases based upon toll settlements with independents which would allot $1,142,504 of total increases to independent telephone companies dividing toll revenues with Southern Bell in North Carolina, leaving for Southern Bell the said $4,983,180 of additional gross revenue required to produce a fair rate of return. This increase is an increase in the local service revenues accruing to Southen Bell of 4.83% over its present local service revenues, and is 23.41% of the increase applied for in this proceeding by Southern Bell of $21,284,140. The increases applied for by the applicant in excess of the above amount found to be reasonable are deemed to be and are found to be unjust and unreasonable by the Commission, and rate increases approved in this docket and in Docket No. P-55, Sub 701, and Docket No. P-100, Sub 28, as hereinafter described, to produce the additional $6,125,684 of increased revenues required for the rate of return approved by this Order are found to be just and reasonable

and to require the rate increases approved herein, which may reasonably be charged by the applicant for telephone service rendered to its customers in intrastate service in North Carolina.

16. By Order in Commission Docket No. P-55, Sub 701, in the Application of Southern Bell for increases in its service charges, including charges for installation, moving, disconnecting and changing telephone sets, said Order being issued simultaneously with this Order, the Commission has approved increases from the present $5.00 and $10.00 for such services to approved rates of $7.50 and $12.50 for such services, to produce a total annual increase in gross revenues from increases in service charges of $730,767.50, and said increases in service charges are considered as a part of the additional revenue available to meet the additional revenue requirements found to be justified in this proceeding. Said $730,767.50 of service charge increases approved in said Docket No. P-55, Sub 701, are incorporated in the increased revenue requirements available for the revenue needs in this docket, and the rate schedules approved herein and attached to this Order for local service, centrex rates, private lines, supplemental service, and other charges, as shown in Appendix A, are fixed at revenue levels taking into account the said increase in the service charges in Docket No. P-55, Sub 701.

17. In the Commission's Order of Investigation in this proceeding issued on November 8, 1971, the Commission separated the proposed increase in toll rates into a separate Docket No. P-100, Sub 28, for general investigation of all toll rates in North Carolina. The Commission's Order in said separate Docket No. P-100, Sub 28, issued simultaneously herewith, denies any increase in toll rates as applied for by Southern Bell, but increases the WATS line charges for independent telephone companies, and finds from the record in said proceeding that said increase in WATS line charges to independents will result in an increase to Southern Bell from the settlement procedures for settlement of toll revenues of $84,460 additional revenue to Southern Bell. The Commission finds and concludes that said additional revenue of $84,460 to Southern Bell is available as an increase in revenue of Southern Bell to provide for the additional revenue requirements found to be necessary for Southern Bell in this proceeding, and said revenue is included in the calculations of the rate increases needed in this case to provide the total revenue requirements found necessary for the fair rate of return found in this proceeding.

18. The rate of return of 7.51% on the fair value of the property allowed by this Order will provide a return on common equity after fixed charges of 11%, based upon an assumed capital ratio of 55% equity, and a return on common equity of 10.06% at the actual 62.15% equity ratio, which the Commission finds is sufficient to allow the applicant to compete in the market for capital funds on a reasonable

basis to its customers and to its existing stockholders. The finding of fair return on equity of 11% will require an increased rate of return on equity over the rate of return of 9.5% heretofore approved in Docket No. P-55, Sub 650, based on capital structure of actual equity at 64.84%, due to the greater risk to such reduced equity from the greater amount of secured debt having priority over said equity interest.

19. That applicant's gross revenues accruing to its own use under the rates approved herein under Appendix A attached to and made a part of this Order, as applied during the test period, would be $163,242,407. The fixed charges computed for the test period based upon the known imbedded cost of debt for Southern Bell at the time of the hearing, as applied to the debt allocated to North Carolina intrastate service at the end of the test period, produces fixed charges of $8,237,719 at the actual debt ratio of 35.93%, and would result in fixed charges of $9,896,801 at the assumed debt ratio of 45%. Total operating deductions for test period operations adjusted to the rate increases allowed and to the assumed capital structure herein will be $132,607,229. Net operating income for the test period will be $30,935,178. Net operating income adjusted for end-of-period would result in income available for fixed charges under the assumed capital structure of $33,592,204, and after payment of fixed charges of $9,896,801 on assumed 45% debt leaves available $23,695,403 for the assumed equity of $215,412,755, giving a return on common equity of 11% on assumed capital structure of 55% equity, or 10.06% on actual 62.15% equity capital structure.

20. That Southern Bell Telephone and Telegraph Company is providing generally good telephone service in its franchised service area in North Carolina and the company has taken action to carry out the service improvement required by Appendix C of the Commission Order in Docket No. P-55, Sub 650.

21. The Commission finds that the following accounting and end-of-period adjustments are necessary to determine the properly adjusted net income and return data for the test period:

Operating Revenues

A. Increase revenues $2,581,000 to reflect the effect of uniform toll rates. Additional toll revenue from uniform toll rates effective December 13, 1971.

B. Increased uncollectible adjustments of $10,866. Additional provision on revenue adjustment of $2,581,000 as shown in A.

C. Decreased uncollectibles in the amount of $63,331 based on intrastate experience for the test period. Adjust uncollectibles to actual experience for the test period.

Operating Expenses

A. Wage adjustment - deny $2,864,000 of increases to be effective 11-1/2 months outside the test period. Exclude wage increases effective 11-1/2 months after the end of the test period.

B. Disallowed club dues, contributions and abandoned projects in the amount of $118,386. Club dues, contributions and abandoned projects in the amount of $118,386 considered a shareholder's expense.

C. Increased general services and licenses expenses $26,335 following the revenue adjustment. Additional expense to be incurred as a result of adjustments to operating revenues.

D. Allow effect of increase in FICA top rate which will be effective 5 months outside the test period ($301,000). Increase was a known change in effect at the time of the hearing.

Taxes - Other

A. Increased gross receipts taxes $154,860 following the revenue adjustments. Gross receipts taxes applicable to revenue adjustment of $2,581,000.

Taxes - State Income

A. Increased state income taxes $117,605. Taxes computed on revenue and expense adjustments plus end-of-period interest and additional interest from assumed debt ratio.

Taxes - Federal Income

A. Decreased Federal income taxes $884,389. Taxes computed on revenue and expense adjustments plus end-of-period interest and additional interest from assumed debt ratio.

Telephone Plant in Service

A. Correct an extension error made by the company in July 1971 of $139,963. Corrected intrastate investment.

Allowance for Working Capital

A. Materials and supplies - reduce the balance $7,556 to a normal level based on previous experience. Materials and supplies excess for the test period based on previous 5 years' average.

B. Average tax accruals - reduce the allowance $9,401,892 for the average tax accruals.

C. Reduce the allowance $953,010 following the accounting and pro forma adjustments.

D. Average tax accruals - reduce the allowance $10,143,801 by the average tax accruals. Working capital reduction by average tax accruals and customers' deposits.

SUMMARY

The Application of Southern Bell in this proceeding seeks increases in rates to produce $21,284,140 of additional revenue from its customers receiving service at the end of the test period subject to adjustments to provide required additional settlements to independent companies under the toll settlement procedures in effect for overall toll service in North Carolina.

The Commission has found as a fact that such proposed total increases are unjust and unreasonable and will produce a return greater than a reasonable rate of return on the telephone plant in service at the end of the test period, considering adjustments in certain revenue and expense accounts to reflect a normal test year of operations. The Commission further finds as a fact that the present rates of Southern Bell are insufficient to produce a fair rate of return to the company and has found as a fact that an increase in rates of $6,125,684, of which $4,983,180 would accrue to Southern Bell after settlement with independents, is necessary to produce a fair rate of return for the company's property in service at the end of the test period, and that increases in monthly rates and other charges, including increases in service charges in Docket No. P-55, Sub 701, and Docket No. P-100, Sub 28, to produce such additional annual revenue are just and reasonable. The distribution of such total annual increases over the respective monthly rates and other rate changes filed herein are set out in the ordering paragraphs and in Appendix A of this Order and include $730,767 of additional revenues resulting from increases in charges for installation, moving, disconnecting and changing of telephones in Docket No. P-55, Sub 701, and $84,460 from independents WATS increases in Docket No. P-100, Sub 28, issued simultaneously herewith.

The following Tables, based on the Findings of Fact, show the basis for the $4,983,180 of increases accruing to Southern Bell found to be a reasonable annual increase from the records in this proceeding, including the increases approved simultaneously herewith in Docket No. P-55, Sub 701, and Docket No. P-100, Sub 28.

SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
NET OPERATING INCOME AND NET INCOME COMPUTATIONS
FOR THE TEST PERIOD ENDING JULY 31, 1971
AFTER ADJUSTMENTS

North Carolina Intrastate	Present Rates	Approved Increase	After Increase
Operating Revenues			
Local service revenues	$103,116,768	$4,983,180*	$108,099,948
Toll service revenues	48,342,285		48,342,285
Miscellaneous revenues	7,791,598		7,791,598
Uncollectibles	(670,445)	(20,979)	(691,424)
Total operating revenues	158,580,206	4,962,201	163,542,407
Operating Revenue Deductions			
Operating expenses	71,569,313	49,622	71,618,935
Depreciation	23,319,596		23,319,596
Taxes other than income	16,580,007	298,991	16,878,998
Taxes - State income	2,017,291	276,815	2,294,106
Taxes - Federal income	16,318,575	2,081,651	18,400,226
Allocation of AT&T Federal income taxes	-	-	-
Total operating revenue deductions	129,804,782	2,707,079	132,511,861
Net operating income	28,775,424	2,255,122	31,030,546
Add: end-of-period adjustment	1,049,302		1,049,302
Net operating income for return	$ 29,824,726	$2,255,122	$ 32,079,848
Investment in Telephone Plant			
Telephone plant in service	$481,900,458	$	$481,900,458
Less: depreciation reserve	109,117,077		109,117,077
Net investment in telephone plant	372,783,381		372,783,381

RATES

555

	Present Rates	Approved Increase	After Increase
Allowance for Working Capital			
Materials and supplies	2,607,558		2,607,558
Cash allowance	777,424	577	778,001
Less: average tax accruals	(10,143,801)	(546,695)	(10,690,496)
Total allowance for working capital	(6,758,819)	(546,118)	(7,304,937)
Net investment in telephone plant plus allowance for working capital	$366,024,562	$ (546,118)	$365,478,444
Ratio to net investment - percent	8.15		8.78
Fair value rate base	$427,231,561		$427,231,561
Rate of return - percent	6.98		7.51

*This amount accrues to Southern Bell from the $6,125,684 total rate increases approved in this docket and Docket No. P-55, Sub 701, and the revenue increase from Docket No. P-100, Sub 28.

RETURN ON EQUITY

	Present Rates Actual Equity	After Increase Assumed Equity
Net operating income for return	$ 29,382,271	$ 32,079,848
Add: other income - net	1,579,223	1,512,356
Income available for fixed charges	30,961,494	33,592,204
Fixed charges	8,237,719	9,896,801
Income available for common stockholders	22,723,775	23,695,403
Common equity	243,387,949	215,412,755
Return on common equity - percent	9.34	11.00

PRESENT CAPITAL STRUCTURE

Capital Structure	Amount	Percent	Interest
Long-term debt	$111,242,430	28.40	$6,597,283
Short-term debt	29,491,451	7.53	1,640,436
Total debt	140,733,881	35.93	8,237,719
Deferred income taxes	7,537,724	1.92	- *
Common equity	243,387,949	62.15	
Total capitalization	391,659,554	100.00	8,237,719

ASSUMED CAPITAL STRUCTURE

	Amount	Percent	Interest
Long-term debt	$139,217,624	35.55	$8,256,365
Short-term debt	29,491,451	7.53	1,640,436
Total debt	168,709,075	43.08	9,896,801
Deferred income taxes	7,537,724	1.92	- *
Common equity	215,412,755	55.00	
Total capitalization	391,659,554	100.00	9,896,801

* Zero cost capital.

Based upon the Findings of Fact as set forth above, the Commission makes the following

CONCLUSIONS

1. The Commission concludes that no more than $6,125,684 of the $26,424,989 total rate increase filed is necessary to pay increased settlements to independents and leave $4,983,180 to provide a fair rate of return to Southern Bell on the fair value of its property in service at the end of the test period. The $730,767.50 increase in connection charges approved in Docket No. P-55, Sub 701, and $84,460 WATS revenues from Docket No. P-100, Sub 28 are available to be a part of the total increased revenue found to be necessary in this docket.

2. The rate increases proposed by Southern Bell in the Application are found to be unreasonable and unjustified to the extent that they produce increases on an annualized basis from the customers at the end of the test period in excess of $6,125,684, including the $730,767.50 in Docket No. P-55, Sub 701, and $84,460 from Docket P-100, Sub 28, and after a deduction of $1,142,504 for settlement with independents, with a net of $4,983,180 to Southern Bell.

3. The Commission has found that the fair value of the plant in service is $427,231,561 and that a fair rate of return on the fair value of the plant is 7.51%, bringing net income for return after adjustment for 55% equity of $32,079,848. This produces a ratio of net income to the original cost of the property of 8.78% and a return on common equity of 11% at the assumed equity ratio of 55%, and 10.06% at the actual equity ratio of 62.15%.

4. The Commission finds and concludes that the said above annual increase in rates of $6,125,684 should be derived from increases and changes for the respective services and in the total gross annual amounts as reflected in Appendix A attached hereto, as follows:

	Increase Proposed	Increase Approved
Centrex Rates	$ 638,404.80	$ 294,379.20
Private Lines	226,130.00	126,737.40
Supplemental Service (1)	2,254,891.00	772,772.60
Sub Total	$3,119,425.80	$1,193,889.20
Service Charges Docket No. P-55, Sub 701		730,767.50
WATS, Docket No. P-100, Sub 28		84,460.00
Wilmington (2)		117,220.20
Sub Total		$2,126,336.90
Less Reductions (3)		
Princess	$ 182,612.60	
Wendell, etc. EAS	49,150.80	
Total Reductions		$ 231,763.40
Sub Total		$1,894,573.50
Local Service:		
Residence Main Station, 40¢ increase per month		$2,928,720.00
Business Main Station, 90¢ increase per month		1,302,482.00
Total		$6,125,775.50

(1) $630,730 reduction made by eliminating proposed increase on residence extensions, Princess and Touch Tone sets in addition to reduction of approximately 1/2 of proposed increase on other items.

(2) Wilmington regrouped in addition to other main station increases.

(3) Princess monthly rate reduced from 65¢ to 50¢ and $6.00 extra installation charge discontinued (which is not a service connection charge).

5. The Commission finds that the increased expenses and increased cost of furnishing service, as shown in the record, justifies the allocation of the rate increases so that the principal amount of the increases will relate to charges for service and for actual use of the telephone plant, with the remaining increase being assigned to the local monthly rate. The exchange at Wilmington is found to be in a rate group below the number of telephones in the Wilmington exchange, and that equitable groupings of exchanges requires that Wilmington be placed in rate group 5, which results in Wilmington bearing a proportionately greater increase based upon the greater number of telephones in the calling scope to move up to the charges for exchanges of comparable size in the Bell system in North Carolina.

6. The Commission has found in this proceeding and concludes that the capital structure of Southern Bell should be treated on an assumed basis at the same level as its parent American Telephone & Telegraph Company, and on the basis of expert testimony in this proceeding, concludes that the assumed capital structure most reasonable for fixing just and reasonable rates is a structure of 55% equity and 45% debt, and has adjusted the actual ratio of 62.15% equity of Southern Bell in North Carolina to reflect the greater leverage of increased debt. The actual return of Southern Bell on its 62.15% equity is found under the approved rates to be 10.06% return on equity, and the Commission has found that a fair rate of return on equity at the assumed capital structure will be 11% return on equity for the 55% equity. Southern Bell and its parent American Telephone & Telegraph Company have the option of financing Southern Bell's next capital requirements with increased debt and will thus be able to earn the approved 11% return on equity as an actual return when they achieve such assumed capital structure. This is the basic approximate capital structure of American Telephone & Telegraph Company, and is the capital structure recognized by the applicant Southern Bell through its expert witnesses in this proceeding.

7. Southern Bell has had substantial growth in demand for additional service and has undertaken a construction program to meet such demand for additional service, and it is necessary in order to continue adequate service that the earnings of Southern Bell be maintained at a level so as to attract capital needed for such service and the construction program proposed.

8. The overall level of telephone service now being provided by Southern Bell in North Carolina is generally good. The company has proceeded to carry out action as

required by the Commission in the preceding docket to further improve certain specific areas of service. The company has improved its operations and service level. The Commission concludes that Southern Bell must maintain the present level of service and should make further improvement in its operating procedures as necessary to fully meet its customers demands and expectations. The provision of adequate and efficient service to telephone subscribers should not be restricted or hindered by the specific level of any index used by the company in its service measuring and management program. It is the Commission's conclusion that service indices alone should not be the only consideration in evaluating the adequacy of service, but also consideration of the degree of subscriber satisfaction with the service must be made. However, the Commission does conclude that specific service indices are useful means for both the company and the Commission to determine the quality of telephone service and the areas of a company's operations where improvement should be made. The Commission further concludes that the process of evaluating the adequacy and sufficiency of telephone service should include all methods of evaluation, such as service indices, as well as the satisfaction of individual subscribers or groups of subscribers.

9. The Commission further concludes that Southern Bell should be required to investigate each specific service complaint of each public witness who testified in this case and that the company should provide a report to the Commission of its findings and such specific action as has been or will be taken to provide satisfactory service to the complainants. The Commission further concludes that Southern Bell should make every effort to eliminate telephone system problems testified to by witness Frank Leatherman for service to the State of North Carolina, and that the company should make every effort to satisfactorily resolve the difficulties and provide the Commission with a report of the action taken.

PRICE COMMISSION

The Utilities Commission takes judicial notice of the President's Executive Order establishing Phase 2 of price and wage controls under the Economic Stabilization Act of 1970, as amended, and the establishment of the Cost of Living Council and the Price Commission pursuant to said Order and the Rules and Regulations of the Price Commission published in Vol. 36, No. 220, Federal Register, December 17, 1971, §300.16, Regulated Utilities, at p. 21,793, as amended in Vol. 37, No. 9, Federal Register, January 14, 1972, at p. 652, and Vol. 37, No. 54, March 18, 1972, at p. 5701, and §300,16a, Public Utility Prices Not Subject to 300.16; Proposed Rules by Public Utility Price Increases, published in said Federal Register, Vol. 37, No. 54, May 18, 1972, as published in 6 CFR §300.16a. Section 300.16a relates to certification of State regulatory agencies for approval of price increases after May 24, 1972,

and provides for 60-day price freeze and Price Commission approval following May 24, 1972, for increases approved by State regulatory agencies which have not been certified by the Price Commission. The North Carolina Utilities Commission on May 19, 1972, filed Application for Certification by the Price Commission under 6 CFR 300.16a. The criteria and policies of the Price Commission for price increases under the Economic Stabilization Act have been considered by the Commission and the Commission finds as follows:

1. The increases approved in this proceeding are cost-justified and do not contain any future inflationary expectations. Each of the expenses found reasonable in this proceeding is an actual expense in effect at the time of the hearing in this proceeding and none are based on predictions of any future increases in inflation.

2. The increase is the minimum required to assure continued and adequate and safe service or to provide for necessary expansion to meet future requirements. The construction program of Southern Bell requires substantial additional capital investment, and without the increases approved here, the Commission has found that Southern Bell could not compete in the capital market for necessary funds for such necessary improvements.

3. The increase will achieve the minimum rate of return on capital at reasonable cost and not to impair the credit of Southern Bell. The increase in imbedded interest cost of Southern Bell has increased the cost of debt. The evidence is clear that the 10.41% rate of return on actual equity of Southern Bell and the 11% return on assumed equity of Southern Bell are essential under present economic conditions as a fair return on equity.

4. The increase does not reflect labor cost in excess of the 5.5% wage increases allowed by the Price Commission policies.

5. The increases take into account the expected and obtainable productivity gains as determined under Price Commission policies, by means of setting them off against contracted wage increases, in that the Order does not allow for any increases in wages after the hearing on March 24, 1972, and the future wage increases in the annual wage contract, but not allowed as expenses for the test period, will absorb estimated productivity gains.

The method utilized by the Commission in this hearing of a firm test period, with no adjustment for future increases in expenses, and adjusting only for known changes in expenses and revenues has, in effect, measured the actual productivity gains which have been achieved by the company in the test period fixed in this proceeding.

6. The procedures of the Utilities Commission provide for reasonable opportunity for participation by all interested persons or their representatives in this proceeding, and the using and consuming public was represented by the Attorney General, and due public notice was given of the hearing, and all parties who requested to be heard either as formal parties of record or through presentation of public statements were admitted to the proceeding.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the applicant, Southern Bell Telephone & Telegraph Company, be, and hereby is, authorized to increase its North Carolina intrastate telephone rates and charges to produce additional annual gross revenue in this docket not exceeding $5,310,548, by applying total increases of $5,542,311.40, less total decreases of $231,763.40 based upon stations and operations as of July 31, 1971, as hereinafter set forth, plus increases in Docket No. P-55, Sub 701, of $730,767.50, and revenue from Docket No. P-100, Sub 28 of $84,460 for total net increases of $6,125,775.50.

2. That the local monthly rates prescribed and set forth in Appendix "A" hereto attached setting forth increased monthly local subscriber rates which will produce additional gross revenue of $4,231,202 from said end-of-test-period customers are hereby approved to become the monthly station rates to be charged by Southern Bell in North Carolina, effective with bills rendered in advance on the next billing date or dates five days following the release of this Order, with the revisions in rate groupings as shown in Appendix "A".

3. That the increases in (a) centrex service of $294,379.20; (b) private lines of $126,737.40; (c) Wilmington regrouping of $117,220.20; (d) supplemental service and equipment of $772,772.60, and the decreases in (i) Princess of $182,612.60 and in the (ii) Wendell, etc. EAS of $49,150.80, are hereby approved as filed in this proceeding, to produce additional annual revenue from said combined increases and decreases for customers and service at the end of the test period July 31, 1971, in the amount of $1,079,346, to become effective as the rates and charges of Southern Bell for said services effective with bills rendered in advance on the next billing date or dates five days following the release of this Order.

4. That the increase in service charges to $7.50 and $12.50 to produce annual additional revenue of $730,767.50 are recognized herein as approved in Docket No. P-55, Sub 701, and the increased revenue of $84,460 from independents WATS in Docket No. P-100, Sub 28 are recognized herein as approved.

5. That Southern Bell shall file necessary revised tariffs reflecting the above increases and decreases, to be effective as of the dates prescribed above.

6. That Southern Bell investigate each complaint as testified to by the public witnesses in this case and provide the Commission with a report on the specific action taken by the Company on or before August 1, 1972.

7. That Southern Bell report by September 30, 1972 the status of all service improvement programs carried out to improve (a) the level of DDD transmission measurements, (b) the manual toll and directory assistance answer time at Wilmington, (c) the quality of subscriber loops, (d) the shortages of central office equipment in exchanges needing relief, (e) the percent of subsequent, repeat and out-of-service trouble reports carried over to next day, and (f) the percent of company appointments not met and negotiated installations not completed within five days.

ISSUED BY ORDER OF THE COMMISSION.

This 30th day of June, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

NOTE: For the remainder of Appendix A, see the official Order in the Office of the Chief Clerk.

APPENDIX "A"
SOUTHERN BELL TELEPHONE & TELEGRAPH COMPANY
DOCKET NO. P-55, SUB 681

EXCHANGE RATE GROUPING
Main Stations and PBX Trunks In Local Service Area

		Monthly Flat Rate							
		Residence				Business			
Group		Ind.	2-Pty.	4-Pty.	Rural	Ind.	2-Pty.	4-Pty.	Rural
1.	0 - 7,000	4.95	4.00	3.50	3.50	10.85	9.70	8.90	8.90
2.	7,001 - 13,000	5.15	4.15	3.60	3.60	11.60	10.45	9.50	9.50
3.	13,001 - 23,000	5.35	4.35	3.75	3.75	12.35	11.20	10.10	10.10
4.	23,001 - 34,000	5.60	4.55	3.90	3.90	13.10	11.95	10.70	10.70
5.	34,001 - 50,000	5.85	4.75	4.05	4.05	13.85	12.70	11.30	11.30
6.	50,001 - 80,000	6.05	4.95	4.20	4.20	14.85	13.45	12.05	12.05
7.	80,001 - 120,000	6.30	5.15	4.40	4.40	16.35	14.95	13.15	13.15
8.	120,001 - Up	6.55	5.35	4.60	4.60	17.85	16.45	14.25	14.25

	Rates by Exchanges							
	Residence				Business			
Exchange	Ind.	2-Pty.	4-Pty.	Rural	Ind.	2-Pty.	4-Pty.	Rural
Acme	5.60	4.55	3.90**	-	13.10	11.95	-	-
Anderson	5.85	4.75	4.05**	-	13.85	12.70	-	-
Apex	6.05	4.95	-	-	14.85	13.45	-	-
Arden	6.05	4.95	4.20**	-	14.85	13.45	-	-
Asheville	6.05	4.95	4.20**	-	14.85	13.45	-	-
Atkinson	4.95	4.00	3.50**	-	10.85	9.70	8.90**	-
Belmont	6.55	5.35	-	-	17.85	16.45	-	-
Bessemer City	5.85	4.75	-	-	13.85	12.70	-	-
Black Mountain	5.85	4.75	-	-	13.85	12.70	-	-

* Obsolete Service Offering IBRA
** Obsolete Service Offering throughout Exchange
\# Obsolete Service Offering on Inward Movement

Exchange	Residence				Business			
	Ind.	2-Pty.	4-Pty.	Rural	Ind.	2-Pty.	4-Pty.	Rural
Blowing Rock	4.95	4.00	-	-	10.85	9.70	-	-
Bolton	4.95	4.00	3.50**	-	10.85	9.70	-	-
Boone	5.15	4.15	3.60**	-	11.60	10.45	-	-
Burgaw	4.95	4.00	3.50*	3.50**	10.85	9.70	8.90**	-
Burlington	5.85	4.75	4.05**	-	13.85	12.70	-	-
Canton	5.35	4.35	3.75*	-	12.35	11.20	10.10**	-
Caroleen	5.35	4.35	-	-	12.35	11.20	-	-
Carolina Beach	5.60	4.55	-	-	13.10	11.95	-	-
Cary	6.05	4.95	-	-	14.85	13.45	-	-
Castle Hayne	5.60	4.55	3.90**	-	13.10	11.95	-	-
Charlotte	6.55	5.35	4.60**	-	17.85	16.45	-	-
Cherryville	5.60	4.55	3.90**	-	13.10	11.95	10.70**	-
Claremont	5.15	4.15	3.60**	-	11.60	10.45	-	-
Cleveland	5.35	4.35	-	-	12.35	11.20	-	-
Clyde	5.35	4.35	3.75**	-	12.35	11.20	-	-
Davidson	6.55	5.35	4.60**	-	17.85	16.45	-	-
Denver	5.35	4.35	3.75**	-	12.35	11.20	10.10**	-
Ellenboro	5.35	4.35	3.75**	-	12.35	11.20	-	-
Enka-Candler	5.85	4.75	4.05**	-	13.85	12.70	-	-
Fairmont	5.35	4.35	3.75**	-	12.35	11.20	-	-
Fairview	5.85	4.75	-	-	13.85	12.70	-	-
Forest City	5.35	4.35	3.75*	-	12.35	11.20	10.10**	-
Gastonia	5.85	4.75	-	-	13.85	12.70	-	-
Gatewood	5.60	4.55	3.90**	-	13.10	11.95	-	-
Gibson	4.95	4.00	-	-	10.85	9.70	-	-
Goldsboro	5.60	4.55	-	-	13.10	11.95	-	-
Grantham	5.35	4.35	-	-	12.35	11.20	-	-
Greensboro	6.05	4.95	4.20**	-	14.85	13.45	-	-
Grover	5.35	4.35	-	-	12.35	11.20	-	-
Hamlet	5.15	4.15	-	-	11.60	10.45	-	-
Hendersonville	5.35	4.35	3.75*	-	12.35	11.20	10.10**	-
Huntersville	6.55	5.35	-	-	17.85	16.45	-	-
Julian	6.05	4.95	4.20**	-	14.85	13.45	-	-
Kimesville	5.60	4.55	3.90**	-	13.10	11.95	-	-

Exchange	Residence				Business			
	Ind.	2-Pty.	4-Pty.	Rural	Ind.	2-Pty.	4-Pty.	Rural
Kings Mountain	5.85	4.75	-	-	13.85	12.70	-	-
Knightdale	6.05	4.95	-	-	14.85	13.45	-	-
Lake Lure	5.35	4.35	3.75**	-	12.35	11.20	-	-
Lattimore	5.35	4.35	3.75**	-	12.35	11.20	-	-
Laurinburg	5.15	4.15	-	-	11.60	10.45	-	-
Lawndale	5.35	4.35	3.75**	-	12.35	11.20	10.10**	-
Leicester	5.85	4.75	-	-	13.85	12.70	-	-
Lenoir	5.35	4.35	3.75*	-	12.35	11.20	10.10**	-
Lincolnton	5.35	4.35	3.75*	3.75**	12.35	11.20	10.10**	10.10**
Locust	4.95	4.00	3.50**	-	10.85	9.70	-	-
Long Beach	4.95	4.00	-	-	10.85	9.70	-	-
Lowell	5.85	4.75	-	-	13.85	12.70	-	-
Lumberton	5.35	4.35	3.75#	3.75**	12.35	11.20	10.10**	-
Maggie Valley	5.35	4.35	3.75**	-	12.35	11.20	-	-
Maiden	5.35	4.35	3.75**	-	12.35	11.20	-	-
Milton	5.60	4.55	3.90**	-	13.10	11.95	10.70**	-
Monticello	6.05	4.95	4.20**	-	14.85	13.45	-	-
Morganton	5.35	4.35	3.75*	-	12.35	11.20	10.10**	-
Mt. Holly	6.55	5.35	-	-	17.85	16.45	-	-
Mt. Olive	5.60	4.55	-	-	13.10	11.95	-	-
Newland	4.95	4.00	3.50**	-	10.85	9.70	-	-
Newton	5.60	4.55	3.90*	-	13.10	11.95	10.70**	-
Pembroke	5.35	4.35	-	-	12.35	11.20	-	-
Raleigh	6.30	5.15	-	-	16.35	14.95	-	-
Reidsville	5.35	4.35	3.75**	-	12.35	11.20	10.10**	-
Rockingham	5.15	4.15	-	-	11.60	10.45	-	-
Rowland	5.35	4.35	-	-	12.35	11.20	-	-
Ruffin	5.35	4.35	-	-	12.35	11.20	-	-
Rutherfordton	5.35	4.35	3.75*	-	12.35	11.20	10.10**	-
Salisbury	5.60	4.55	3.90**	-	13.10	11.95	10.70**	-
Saxapahaw	5.85	4.75	4.05**	-	13.85	12.70	11.30**	-
Scotts Hill	5.60	4.55	-	-	13.10	11.95	-	-
Selma	5.15	4.15	-	-	11.60	10.45	-	-
Shelby	5.60	4.55	3.90**	-	13.10	11.95	-	-

Exchange	Residence				Business			
	Ind.	2-Pty.	4-Pty.	Rural	Ind.	2-Pty.	4-Pty.	Rural
Southport	4.95	4.00	-	-	10.85	9.70	-	-
Spruce Pine	4.95	4.00	3.50**	-	10.85	9.70	8.90**	-
Stanley	5.85	4.75	-	-	13.85	12.70	-	-
Statesville	5.35	4.35	3.75*	-	12.35	11.20	10.10**	-
Stony Point	5.35	4.35	-	-	12.35	11.20	-	-
Summerfield	6.05	4.95	4.20**	-	14.85	13.45	-	-
Swannanoa	5.85	4.75	-	-	13.85	12.70	-	-
Taylorsville	4.95	4.00	3.50*	3.50**	10.85	9.70	8.90**	-
Troutman	5.35	4.35	3.75**	-	12.35	11.20	-	-
Waynesville	5.35	4.35	3.75*	-	12.35	11.20	-	-
Wendell	6.05	4.95	-	-	14.85	13.45	-	-
Wilmington	5.85	4.75	4.05**	-	13.85	12.70	11.30**	-
Winston-Salem	6.30	5.15	-	-	16.35	14.95	-	-
Wrightsville Beach	5.60	4.55	-	-	13.10	11.95	-	-
Zebulon	6.05	4.95	-	-	14.85	13.45	-	-

DOCKET NO. P-55, SUB 681

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Southern Bell Telephone and Telegraph Company for Authority to Adjust its Rates and Charges for Telephone Service in its Service Area Within North Carolina	)	ORDER CORRECTING RATE ORDER: FURTHER PARTIAL INCREASE

HEARD: September 8, 1972, in the Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on Motion to Modify.

BEFORE: Chairman Marvin R. Wooten, Presiding, Commissioners John W. McDevitt, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

For the Applicant:

R. C. Howison, Jr.
Joyner & Howison
Wachovia Bank Building
Raleigh, North Carolina

John F. Beasley
Attorney
Southern Bell Telephone & Telegraph Company
1245 Hurt Building
Atlanta, Georgia

For the Using and Consuming Public:

I. Beverly Lake, Jr.
Assistant Attorney General
One West Morgan Street
Raleigh, North Carolina

For the Commission Staff:

Edward B. Hipp
Commission Attorney
and
Maurice W. Horne
Assistant Commission Attorney
One West Morgan Street
Raleigh, North Carolina

BY THE COMMISSION: This matter is before the Commission on the Motion of Southern Bell Telephone & Telegraph Company (hereinafter called "SOUTHERN BELL") filed on July 21, 1972, to alter or amend the Commission Order of June 30, 1972, granting Southern Bell a partial increase in its rates and charges, to further increase the said rates and charges.

The Commission's Order of June 30, 1972, allowed an increase in the rates of Southern Bell of $5,310,548, which combined with increases allowed in simultaneous Orders for increases in moves and change charges and WATS charges accruing to Southern Bell from independent telephone companies resulted in total net increases of $6,125,775.50, to produce a rate of return of 7.51% on the fair value of Southern Bell's property used and useful in service in North Carolina, found to be just and reasonable by the Commission. The Commission found that said 7.51% rate of return on the fair value of Southern Bell property would produce a return of 11% on the equity of Southern Bell property devoted to service in North Carolina, as adjusted on a pro forma basis to a reasonable capital structure of 55% equity and 45% debt. The actual capital structure of Southern Bell during the test period ending July 31, 1971, was 62.15% equity and 37.85% debt and deferred income taxes, which was found by the Commission to be unreasonable and adverse to the interest of the rate payers.

The Motion of Southern Bell was set for oral argument, and all parties of record given notice thereof.

The Attorney General filed an appearance and brief for the using and consuming public and through duly designated Assistant Attorney General participated in oral argument on the Motion of Southern Bell to modify the rate Order.

The Motion of Southern Bell seeks amendment of the Order of the Commission, based upon Southern Bell's contention as to the effect of the decision of the North Carolina Supreme Court in the case of Utilities Commission, et al v. General Telephone Company of the Southeast, et al, 281 NC 318, filed June 16, 1972, contending that said decision requires the Commission to add $61,206,000 to the equity component of Southern Bell, being the increment of fair value of the property over original cost thereof, and to further amend said Order to include $2,864,000 of wage increases for a wage increase to begin July 1, 1972, contending that both said corrections would require the Commission to approve further increases for Southern Bell in the amount of $16,700,000.

By written brief and oral argument presented in the hearing on said Motion, the Attorney General denies the contentions of Southern Bell that said Order requires such modification, based upon the decision in Utilities Commission, et al v. General Telephone Company of the Southeast, et al, (supra), and contends that said decision provides that the Commission may fix a proformed capital structure based upon a reasonable ratio between debt and equity, which the Commission applied in said decision of June 30, 1972, and that said adjustment to proform a reasonable capital structure is authorized by said decision in lieu of adding the total increment of $54,448,180 to the equity component of Southern Bell's capital structure, and that adding said entire fair value increment to the actual

equity component would result in an even greater disproportion of equity to debt, giving a ratio of 69.7% equity and 30.3% debt under the Attorney General's calculation of such fair value, and a ratio of 71.2% equity and 28.8% debt under Southern Bell's calculation of said fair value increment. The Attorney General's brief and argument contend that the only correction required to said Order of June 30, 1972, to comply with the decision of Utilities Commission, et al v. General Telephone Company of the Southeast, et al, (supra), is to adjust the amount of capital ascribed to the capital structure in proforming a reasonable capital structure, to recognize said increment of fair value over original cost; that upon recognizing said increment to the amount of dollars of capital included in said capital structure, and maintaining the same cost of capital found to be just and reasonable in the Commission Order of June 30, 1972, that said additional capital included therein would require additional net income in the amount of $2,152,106 to support the cost of capital of said capital structure; and that when said additional net income required by said correction is multiplied by the appropriate multiplier of 2.208 to convert the net income to the gross revenue required to produce said net income after taxes, the only correction required in said Order is to allow additional gross revenue by additional rate increases in the amount of $4,751,950, rather than the $16,700,000 which Southern Bell contends is required in additional revenue to correct said Order.

The Commission has given consideration to the Motion of Southern Bell and to the brief and argument of the Attorney General and to the decision of the Supreme Court in Utilities Commission, et al v. General Telephone Company of the Southeast, (supra), and the record herein, and concludes that the Commission's Order of June 30, 1972, should be corrected in accordance with the brief and argument submitted by the Attorney General to adjust the amount of capital used in the capital structure formula to recognize the increment for fair value as required by Utilities Commission, et al v. General Telephone Company of the Southeast, (supra), to the extent consistent with the record herein, as hereinafter described, to authorize a further increase in rates to provide an additional net income of $2,152,106.

The allowance of said additional net income would require an increase in rates of $4,755,544, as additional gross revenue before taxes, to produce said net income after taxes, and would also increase the amount of dollars which Southern Bell would be required to pay to the independent telephone companies in North Carolina in the settlement of toll revenues by the payment of an additional $1,090,313 to the independent telephone companies. When this increase in settlements is added to the $4,755,544 of additional revenue required by the correction filed by the Attorney General, the total increase in rates resulting therefrom would be $5,845,857.

Based upon the above Motion, hearing, statements on oral argument and proposed corrections submitted upon written brief, and the Commission's conclusions from Utilities Commission, et al v. General Telephone Company of the Southeast, (supra), and the record herein, the Commission makes the following

FINDINGS OF FACT

1. On the basis of the record in this proceeding, as heard in March 1972, there is insufficient, competent and material evidence upon which to find that the rate of return found to be required on the fair value of Southern Bell's property (to enable it to produce a fair profit for its stockholders and to compete in the market for capital funds) should be applied to the entire fair value increment to the equity component of Bell's capital structure. The cost of capital evidence in this record supports a finding that a further increase in rates of $13,597,398, as sought by Southern Bell for said addition to equity, would produce excessive profits for its stockholders, and would produce a return greater than that required to compete in the market for capital funds, and would be a greater increase than the increase necessary to assure continued adequate and safe service or to provide for necessary expansion to meet future requirements, within the criteria established under the Economic Stabilization Act, 6 Code of Federal Regulation §300.303(a)(2), and the Commission's Rule R13-1(2) adopted pursuant thereto.

2. That the cost of capital and the net income of Southern Bell found to be just and reasonable in said Order of June 30, 1972, should be corrected as submitted by the Attorney General in the hearing on September 8, 1972, to increase the net income found just and reasonable by an additional $2,152,106, to cover the only correction supported by the record or the submissions on behalf of the using and consuming public. The Commission finds that said correction is justified and in the public interest, is consistent with the best evidence before it on the present record and the need to make such correction as is possible on the record, and that such correction is required by the decision of the North Carolina Supreme Court in Utilities Commission, et al v. General Telephone Company of the Southeast, (supra).

3. That to provide for income taxes on said net income and the additional payments required thereby to the independent telephone companies in North Carolina under present settlement agreements, and increased gross receipts taxes, operating expenses and uncollectibles, it is necessary to correct the rate increase approved herein by the approval of further rate increases in the amount of $5,845,857.

4. That to increase the amount of the equity component in the capital structure by the amount of the total fair

value increment, as contended for by Southern Bell, would produce an unreasonable capital structure with equity in the amount of 71.2% of the total capital structure, and the Commission finds that said allocation of the fair value increment solely to equity would result in an unjust and unreasonable capital structure for said company.

5. That Southern Bell has not presented adequate evidence as to the probable future productivity of labor after the wage increase of July 1, 1972, goes into effect, and to increase the probable future operating expenses by the amount of said wage increase without adequate evidence as to whether there are offsetting productivity gains, is unjust and unreasonable, and would be in violation of the requirement to consider productivity gains as set forth in the Rules under the Economic Stabilization Act, 6 CFR 300.303(a)(5), and Commission Rule R13-1(5).

CONCLUSIONS

The Order of the Commission granting partial increase in this proceeding was issued on June 30, 1972, approving increases in the amount of $6,125,684 and disapproving the remainder of the $26,424,989 total increase applied for.

The evidence in the record is based upon precedents established and in existence at the time of the hearing in March 1972. The Commission's basic findings and conclusions in the decision are based on such evidence offered in accordance with said precedents at the time of hearing and at the time of filing of briefs. At the time of issuance of the decision on June 30, 1972, it was not perceived that said decision would have to be reconsidered, reviewed or modified as a result of the decision of the Supreme Court in Utilities Commission, et al v. General Telephone Company of the Southeast, (supra), issued on June 16, 1972. The Order herein of June 30, 1972, was based on evidence relating to earlier precedents, which did not specifically relate to or refer to the decision of the Supreme Court of June 16, 1972.

The Motion to modify filed by Southern Bell and the briefs and oral argument of the parties, including the Attorney General, are convincing that the Order of June 30, 1972, should be corrected insofar as supported by the record to adjust the capital structure for the increment of the fair value as provided in Utilities Commission, et al v. General Telephone Company of the Southeast, (supra), and the net income and gross revenue are adjusted accordingly, as found in the Findings of Fact.

The Order of the Commission entered herein on June 30, 1972, found that the fair rate of return on the fair value of Southern Bell property used and useful in North Carolina is 7.51%, to provide sufficient net income to pay the fixed cost of capital in the form of debt and preferred stock and to produce a fair profit for the stockholders of Southern Bell of 10.06% on actual equity invested, and 11% on the

proformed 55% equity found to be a reasonable percentage of equity in the capital structure of Southern Bell. The hearing in this proceeding in March 1972 was completed prior to the decision in Utilities Commission, et al v. General Telephone Company of the Southeast, (supra), and the testimony of the rate of return witnesses is based upon precedents for determining the cost of capital and the fair rate of return established prior to said decision. The Commission finds and concludes that further correction of its Order of June 30, 1972, as sought by Southern Bell in its Motion to modify said Order, could not be considered without full rehearing of the proceeding. The rate of return testimony at a rehearing may or may not sustain the same cost of equity capital required to produce a fair profit to the stockholders and allow the company to compete in the market for capital. The comparisons of certain witnesses offering comparable earnings testimony for their opinions as to rate of return were based on the market price for actual equity. The market price of equity on original cost utilities may not be the return required for fair value equity. The market would presumably adjust such required return to the amount necessary to compete in the market, if the equity had added to it the "paper profits" referred to in Utilities Commission, et al v. General Telephone Company of the Southeast, (supra), as contended for by Southern Bell, and would also presumably adjust if said equity had built into it a pro rata portion of said "paper profits" if spread over the entire capital structure as proformed, in the contention of the Attorney General, also made under the provisions of Utilities Commission, et al v. General Telephone Company of the Southeast, (supra).

Based upon the above considerations, the Commission concludes that its Order herein should be corrected and amended to the extent set forth in the argument and brief filed on behalf of the using and consuming public by the Attorney General, but that it should not consider further amendments or corrections without a full rehearing of the case. The total suspension period of 270 days allowed by G.S. 62-134 expired on August 11, 1972, and the Commission is unwilling to reopen this proceeding on the out-dated test period 12 months ending July 31, 1971, or on any risk of having the full $26,424,989 increase applied for go into effect for lack of an Order. Such a full rehearing would raise the additional question as to whether the partial increase approved in the Order of June 30, 1972, would remain in effect if said Order were set aside to reopen the proceeding for rehearing. If Southern Bell contends that it is entitled to still further consideration of its return under new evidence offered under the more recent decision of the Supreme Court, it has the right to file a new proceeding based upon a new test period and new testimony, with full notice of the decision of the Supreme Court in Utilities Commission, et al v. General Telephone Company of the Southeast, (supra).

The corrections provided herein adjust the increase allowed to the extent possible on this record for the decision in Utilities Commission, et al v. General Telephone Company of the Southeast, (supra), considering that the case was tried in March 1972, prior to said decision on June 16, 1972, and that the opinions of the expert witnesses were submitted and the briefs were filed based on former precedents established prior to the full explanation of the law by the Supreme Court on June 16, 1972. The time limitations for issuing decisions of the Utilities Commission are not tolled for reopened hearings as a result of said decision, and an issue would be raised as to the risk of the full rate increase applied for going into effect under G.S. 62-134(b). The case was tried on the former method of considering the cost of capital, and opinions of the Court affirming decisions based on said method, and it is not feasible to rehear this case under the time allowed or to further correct the rate increases, based on the old record, in this Order.

The Motion of Southern Bell to include $2,864,000 of additional wage increases which became effective on July 1, 1972, after issuance of said Order, is denied, for the reason that Southern Bell has failed to establish by the burden of proof that said wage increases, or some part thereof, would not be offset by increased productivity as required by Rules of the Price Commission and Rules of the Utilities Commission enacted pursuant thereto.

The Economic Stabilization Act and the Rules of the Price Commission, 6 CFR 300.303(a)(2) and 6 CFR 300.303(a)(3) require that utility rate increases be the minimum needed to provide adequate service or to provide needed expansion or to attract capital at reasonable costs and not impair the utility's credit, and the Commission concludes that any increases greater than the increases approved here would fail to meet such criteria.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Order of the Commission entered herein on June 30, 1972, is hereby amended to authorize a further increase by the applicant Southern Bell Telephone & Telegraph Company in its North Carolina intrastate telephone rates and charges to produce further additional annual gross revenue in this docket not exceeding $5,845,857, which when added to the total net increases in this docket allowed on June 30, 1972, and related Docket No. P-55, Sub 701, and Docket No. P-100, Sub 28, allowing increases of $6,125,775 make a total of $11,971,632 additional gross revenue rate increases in this docket and said related dockets.

2. That the local monthly rates prescribed and set forth in Appendix A hereto attached, setting forth increased monthly local subscriber rates of 45¢ per month for residential customers and $1.00 per month for business customers, to produce total additional annual gross revenue

of $4,719,768 from said end of test period customers, are hereby approved to become the monthly station rates to be charged by Southern Bell in North Carolina effective with bills rendered in advance on the next billing date or dates five days following the release of this amended Order, with the revisions in rate groupings as shown in Appendix A.

3. That the increases set forth in Appendix A in PBX trunks and message rate service in the amount of $285,296, and in miscellaneous services, i.e., centrex, PBX equipment, keyset equipment, etc., in the amount of $840,792, are hereby approved to become effective as the rates and charges of Southern Bell for said services effective with bills rendered in advance on the next billing date or dates five days following the release of this Order.

4. That Southern Bell shall file necessary revised tariffs within seven days of this Order reflecting the above increases and decreases to be effective as of the dates prescribed above.

5. That in all other respects the ordering paragraphs of the Order entered herein on June 30, 1972, shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This 17th day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

NOTE: For the remainder of Appendix A, see the official Order in the Office of the Chief Clerk.

APPENDIX "A"
SOUTHERN BELL TELEPHONE & TELEGRAPH COMPANY
DOCKET NO. P-55, SUB 681

EXCHANGE RATE GROUPING
Main Stations and PBX Trunks In
Local Service Area

Group	Monthly Flat Rate					
	Residence			Business		
	Ind.	2-Party	4-Party	Ind.	2-Party	4-Party
1. 0- 7,000	5.40	4.45	3.95	11.85	10.70	9.90
2. 7,001- 13,000	5.60	4.60	4.05	12.60	11.45	10.50
3. 13,001- 23,000	5.80	4.80	4.20	13.35	12.20	11.10
4. 23,001- 34,000	6.05	5.00	4.35	14.10	12.95	11.70
5. 34,001- 50,000	6.30	5.20	4.50	14.85	13.70	12.30
6. 50,001- 80,000	6.50	5.40	4.65	15.85	14.45	13.05
7. 80,001-120,000	6.75	5.60	4.85	17.35	15.95	14.15
8. 120,001- Up	7.00	5.80	5.05	18.85	17.45	15.25

Exchange	Rates by Exchanges					
	Residence			Business		
	Ind.	2-Party	4-Party	Ind.	2-Party	4-Party
Acme	6.05	5.00	4.35	14.10	12.95	-
Anderson	6.30	5.20	4.50	14.85	13.70	-
Apex	6.50	5.40	-	15.85	14.45	-
Arden	6.50	5.40	4.65	15.85	14.45	-
Asheville	6.50	5.40	4.65	15.85	14.45	-
Atkinson	5.40	4.45	3.95	11.85	10.70	9.90
Belmont	7.00	5.80	-	18.85	17.45	-
Bessemer City	6.30	5.20	-	14.85	13.70	-

Exchange	Residence			Business		
	Ind.	2-Party	4-Party	Ind.	2-Party	4-Party
Black Mountain	6.30	5.20	-	14.85	13.70	-
Blowing Rock	5.40	4.45	-	11.85	10.70	-
Bolton	5.40	4.45	3.95	11.85	10.70	-
Boone	5.60	4.60	4.05	12.60	11.45	-
Burgaw	5.40	4.45	3.95	11.85	10.70	9.90
Burlington	6.30	5.20	4.50	14.85	13.70	-
Canton	5.80	4.80	4.20	13.35	12.20	11.10
Caroleen	5.80	4.80	-	13.35	12.20	-
Carolina Beach	6.05	5.00	-	14.10	12.95	-
Cary	6.50	5.40	-	15.85	14.45	-
Castle Hayne	6.05	5.00	4.35	14.10	12.95	-
Charlotte	7.00	5.80	5.05	18.85	17.45	-
Cherryville	6.05	5.00	4.35	14.10	12.95	11.70
Claremont	5.60	4.60	4.05	12.60	11.45	-
Cleveland	5.80	4.80	-	13.35	12.20	-
Clyde	5.80	4.80	4.20	13.35	12.20	-
Davidson	7.00	5.80	5.05	18.85	17.45	-
Denver	5.80	4.80	4.20	13.35	12.20	11.10
Ellenboro	5.80	4.80	4.20	13.35	12.20	-
Enka-Candler	6.30	5.20	4.50	14.85	13.70	-
Fairmont	5.80	4.80	4.20	13.35	12.20	-
Fairview	6.30	5.20	-	14.85	13.70	-
Forest City	5.80	4.80	4.20	13.35	12.20	11.10
Gastonia	6.30	5.20	-	14.85	13.70	-
Gatewood	6.05	5.00	4.35	14.10	12.95	-
Gibson	5.40	4.45	-	11.85	10.70	-
Goldsboro	6.05	5.00	-	14.10	12.95	-
Grantham	5.80	4.80	-	13.35	12.20	-
Greensboro	6.50	5.40	4.65	15.85	14.45	-
Grover	5.80	4.80	-	13.35	12.20	-

Exchange	Residence			Business		
	Ind.	2-Party	4-Party	Ind.	2-Party	4-Party
Hamlet	5.60	4.60	-	12.60	11.45	-
Hendersonville	5.80	4.80	4.20	13.35	12.20	11.10
Huntersville	7.00	5.80	-	18.85	17.45	-
Julian	6.50	5.40	4.65	15.85	14.45	-
Kimesville	6.05	5.00	4.35	14.10	12.95	-
Kings Mountain	6.30	5.20	-	14.85	13.70	-
Knightdale	6.50	5.40	-	15.85	14.45	-
Lake Lure	5.80	4.80	4.20	13.35	12.20	-
Lattimore	5.80	4.80	4.20	13.35	12.20	-
Laurinburg	5.60	4.60	-	12.60	11.45	-
Lawndale	5.80	4.80	4.20	13.35	12.20	11.10
Leicester	6.30	5.20	-	14.85	13.70	-
Lenoir	5.80	4.80	4.20	13.35	12.20	11.10
Lincolnton	5.80	4.80	4.20	13.35	12.20	11.10
Locust	5.40	4.45	3.95	11.85	10.70	-
Long Beach	5.40	4.45	-	11.85	10.70	-
Lowell	6.30	5.20	-	14.85	13.70	-
Lumberton	5.80	4.80	4.20	13.35	12.20	11.10
Maggie Valley	5.80	4.80	4.20	13.35	12.20	-
Maiden	5.80	4.80	4.20	13.35	12.20	-
Milton	6.05	5.00	4.35	14.10	12.95	11.70
Monticello	6.50	5.40	4.65	15.85	14.45	-
Morganton	5.80	4.80	4.20	13.35	12.20	11.10
Mt. Holly	7.00	5.80	-	18.85	17.45	-
Mt. Olive	6.05	5.00	-	14.10	12.95	-
Newland	5.40	4.45	3.95	11.85	10.70	-
Newton	6.05	5.00	4.35	14.10	12.95	11.70
Pembroke	5.80	4.80	-	13.35	12.20	-
Raleigh	6.75	5.60	-	17.35	15.95	-
Reidsville	5.80	4.80	4.20	13.35	12.20	11.10

	Residence			Business		
	Ind.	2-Party	4-Party	Ind.	2-Party	4-Party
Rockingham	5.60	4.60	-	12.60	11.45	-
Rowland	5.80	4.80	-	13.35	12.20	-
Ruffin	5.80	4.80	-	13.35	12.20	-
Rutherfordton	5.80	4.80	4.20	13.35	12.20	11.10
Salisbury	6.05	5.00	4.35	14.10	12.95	11.70
Saxapahaw	6.30	5.20	4.50	14.85	13.70	12.30
Scotts Hill	6.05	5.00	-	14.10	12.95	-
Selma	5.60	4.60	-	12.60	11.45	-
Shelby	6.05	5.00	4.35	14.10	12.95	-
Southport	5.40	4.45	-	11.85	10.70	-
Spruce Pine	5.40	4.45	3.95	11.85	10.70	9.90
Stanley	6.30	5.20	-	14.85	13.70	-
Statesville	5.80	4.80	4.20	13.35	12.20	11.10
Stony Point	5.80	4.80	-	13.35	12.20	-
Summerfield	6.50	5.40	4.65	15.85	14.45	-
Swannanoa	6.30	5.20	-	14.85	13.70	-
Taylorsville	5.40	4.45	3.95	11.85	10.70	9.90
Troutman	5.80	4.80	4.20	13.35	12.20	-
Waynesville	5.80	4.80	4.20	13.35	12.20	-
Wendell	6.50	5.40	-	15.85	14.45	-
Wilmington	6.30	5.20	4.50	14.85	13.70	12.30
Winston-Salem	6.75	5.60	-	17.35	15.95	-
Wrightsville Beach	6.05	5.00	-	14.10	12.95	-
Zebulon	6.50	5.40	-	15.85	14.45	-

DOCKET NO. P-55, SUB 701

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Investigation of Non-Recurring Charges for Installations, Changes, Moves and Reconnects for Southern Bell Telephone and Telegraph Company	)	ORDER GRANTING PARTIAL INCREASE

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on May 12, 1972, at 10:00 A.M.

BEFORE: Chairman Harry T. Westcott, Commissioners John W. McDevitt, Marvin R. Wooten, Presiding, Miles H. Rhyne and Hugh A. Wells

APPEARANCES:

Mr. R. Frost Branon, Jr., Attorney at Law
Legal Department
Southern Bell Telephone and Telegraph Company
P. O. Box 2211, 1245 Hurt Building
Atlanta, Georgia
Appearing For: Southern Bell Telephone and Telegraph Company

Mr. Wade H. Hargrove, Attorney at Law
Suite 603, Branch Bank and Trust Building
Raleigh, North Carolina
Appearing For: N.C. Association of Broadcasters, Inc.

Mr. J. Randall Groves
Thigpen and Hines, P.A.
Attorneys at Law
900 North Carolina National Bank Building
Charlotte, North Carolina 28202
Appearing For: Contact, Inc.

Mr. I. Beverly Lake, Jr.
Assistant Attorney General
Attorney General's Office
Revenue Building
Raleigh, North Carolina
Appearing For: The Using and Consuming Public

Mr. Edward B. Hipp
Commission Attorney
217 Ruffin Building
Raleigh, North Carolina
Appearing For: The Commission Staff

BY THE COMMISSION: Southern Bell filed with the Commission, on March 31, 1972, tariffs to increase its non-recurring service charges, effective May 1, 1972. The

Commission, being of the opinion that it should enter into an investigation for the purpose of determining whether or not the rates as proposed are just and reasonable and non-discriminatory to the general body of the Bell Telephone rate payers in North Carolina, entered its order of April 27, 1972, which, among other things, set this matter for hearing, required public notice and suspended the rates and charges until further order of the Commission.

Notice of Intervention was filed with the Commission on May 5, 1972, by the Attorney General of North Carolina, and was recognized by the Commission order of May 8, 1972.

Protest and Petition to Intervene was filed with the Commission on May 9, 1972, by the North Carolina Association of Broadcasters, and was allowed by Commission order of May 10, 1972.

The Notice to the Public advised of the filing of the application to increase Southern Bell's non-recurring charges, which the Company estimated would produce approximately $7,771,252 in additional annual revenue which revenue, if the proposed charges are approved, would be used to decrease local monthly service rates. The notice also set out the present and proposed non-recurring charges as follows:

PRESENT SERVICE CONNECTION CHARGES
(Including cost of removal)

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 instrument utilized or Private Branch Exchange Station, each	$ 5.00
Inside Moves and Changes	
Main Stations, Extension, 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

PROPOSED SERVICE AND NON-RECURRING CHARGES

	Residence	Business
Service Ordering, each order (Note 1)		
Connection, move or change	$10.00	$12.00
Telephone number change	10.00	12.00
Disconnection	7.00	9.00
Station Handling, each station (Note 2)		
Connection, move or change	6.00	7.00
Disconnection	3.00	4.00
Line Work, each line (Note 3)		
Connection	16.00	16.00
Disconnection	2.00	2.00

NOTES

(1) Service Ordering-Receiving information and/or taking action in connection with a subscriber of applicant and processing the necessary data by service order as distinguished from dispatching and implementing the order.

(2) Station Handling-Visiting the subscriber's premises and performing the necessary work while there. This includes, but is not limited to, installing inside wiring and connecting blocks and connecting or removing terminal equipment.

(3) Line Work-Performing the operations associated with the line extending between the serving central office and the subscriber's premises. This includes, but is not limited to, central office connections, cable cross connections and installing the drop and protector.

During the public hearing, held on May 12, 1972, testimony was offered by Mr. Boyd M. Guttery of Southern Bell and Mr. Charles D. Land of the Commission Staff.

NARRATION OF TESTIMONY:

Mr. Boyd M. Guttery, General Rate Administrator for Southern Bell Telephone and Telegraph Company, Atlanta, Georgia, testified substantially as follows:

He is responsible for the Company's Headquarters Group, which has the staff responsibility for rate administration, including responsibility for the development of rates for new services and coordination with the rate staffs in the four states served by Southern Bell. He assisted the North Carolina Rate Organization in preparation of the tariff filing forwarded to the Commission on March 29, 1972, setting forth a pricing approach identical to that presented

to the Commission on January 25, 1972, in connection with Docket No. P-100, Sub 27.

He stated that Bell filed these tariffs for two reasons:

(1) to point out that service connection, move and change charges should not be set uniformly for all telephone companies in North Carolina,

(2) to discuss the tariff proposal describing the full range of activity involved in establishing, disconnecting, moving or changing service, and how pricing approach is based on costs and how it will lessen the amount of the monthly local service rate required from subscribers in North Carolina by more nearly recovering the actual labor costs from those who cause the costs to be incurred.

Some of the factors he listed as being non-uniform from company to company in determining these charges were:

(1) volume of this kind of activity
(2) labor rates
(3) population characteristics
(4) geographical nature of service areas
(5) other operating conditions which influence the levels of cost of performing the work involved

He pointed out that if the charges were not uniform, the Commission could be more flexible in responding to a particular situation by authorizing a change in service charges as part of a general rate application in one case, and authorizing a different level of service charges in another case as an individual company shows its need.

In explaining Bell's historical approach in pricing service charges, Mr. Guttery indicated these charges had not been anchored to any specific cost or expense, but were generally increased to keep in line with the rising labor cost realizing that these charges did not cover the full cost of installing telephone service and performing related moves and changes. He feels that the growing volume of station activity, increasing labor rates, and the frequency of movement by some subscribers emphasizes the need to make these charges more self-sustaining and to place the costs directly on those customers causing the work to be performed. In addition, the element of competition for the provision of telephone equipment on customer premises is a factor in restructuring these service charges.

Mr. Guttery proposed the following functions to be considered in establishing a pricing method for better recovering the costs involved:

(1) Service Ordering: Primarily receiving the order from the customer and processing it by the different departments preparatory to performing the physical operations involved.

(2) Station Handling: Basically, includes the installer's trip to the customer's premises and the work he does while there.

(3) Line Work: Includes operations associated with line extending between the serving central office and the customer's premises such as central office connections, cable cross-connections, etc.

The proposed charge for each function is as follows realizing that all three functions or only various combinations of these functions may be required for the particular job:

	Residence	Business
1. Service Ordering, Each Order		
Connections, Moves or Changes	$10.00	$12.00
Disconnections	7.00	9.00
2. Station Handling, Each Station		
Connections, Moves or Changes	6.00	7.00
Disconnections	3.00	4.00
3. Line Work, Each Line		
Connections	16.00	16.00
Disconnections	2.00	2.00

He stated that he felt this type of pricing could easily be understood by the customer and allow him more flexibility in determining the total amount for which he would be responsible and encourage him to have more service performed on a single visit by the telephone company. Also, the proposed full recovery of the costs incurred would not have any bearing on development of telephone service. The customer would be given a payment option of paying $10.00 at the time the service is connected with the balance being spread over a period of up to six months.

Mr. Guttery next presented an exhibit showing that the revenue effect during the test period for the twelve months ending July 31, 1971, had this schedule of charges been in effect would have been an increase of approximately $7,771,252. This increase would be used to reduce the proposed monthly local service rates requested in the general rate case, Docket No. P-55, Sub 681, by 90¢ for each main station. This would amount to $10.80 each year. Thus, if a customer had residence main station service installed for a charge of $32.00 and did not move for three years, his total three year local service rate would be lower by $32.40 offsetting the initial connecting charge. Mr. Guttery testified that as a practical matter, recognizing the sizable changes in these charges, they could be implemented in stages, and at this point he introduced two schedules of reduced charges, one that would produce $3,887,000 annually and another $2,516,000. He reiterated that the cost of providing these services should be recovered from those who cause the cost to be incurred, and until such time as

charges do in fact equal the cost, the objective will not be fully met. Also, to the extent that any approved charges do not equal the cost levels reflected in the tariff filings, the benefits in reducing the level of local rates requested in the company's general rate case (P-55, Sub 681) is proportionately diminished.

Under cross examination by Mr. Lake, Mr. Guttery discussed the methods used and the background work required to arrive at the schedule of charges. Included were special cost studies and consideration of increasing labor costs. He explained that the consideration of competition in arriving at the charges was not an attempt to improve Bell's position in that area, but an attempt to be fair and equitable and realistic about the future and to provide the subscriber with a breakdown of charges to better help him make a decision in obtaining telephone service.

For the benefit of representatives of telephone answering services, Mr. Guttery made the statement that it was not the intent of these tariffs to apply the three component charges to the normal customers of the secretarial service. However, if the telephone answering service ordered an additional telephone for their benefit, they would be subject to the new tariff in that it is part of their administrative service which they use in the sale and conduct of their business.

Under cross examination from Mr. Hipp, Mr. Guttery indicated as he had done in Docket No. P-100, Sub 27, that of the $32 proposed charge for a new residence main installation, approximately $20 represented costs which would be capitalized and $12 would be charged to expense. He agreed that a customer paying the total $32 amount, which would go into the operating revenue account, would actually be paying a contribution in aid of construction (the capitalized $20 amount); however, since Bell is proposing to flow through the increased revenue from the charges to reduce local rates, the customer would not be paying twice for the same thing. He indicated that these charges were not a means to earning revenue and the only thing involved was trying to recover the revenue from the person who causes Bell to incur the expense. He hoped that such a three component plan would serve to inhibit moves and changes. In further cross examination, Mr. Hipp presented Mr. Guttery with an exhibit (later identified as staff Exhibit No. 1) which the company had previously presented in Docket No. P-100, Sub 27, indicating that the additional revenue would be $730,767.50 annually if the $5.00 and $10.00 non-recurring charges were increased to $7.50 and $12.50 respectively.

Commissioner McDevitt raised questions concerning the logic in having a disconnect charge and the difficulty there might be in collecting such a charge. It was pointed out that no other utility had such a charge. Mr. Guttery, in answer to Commissioner McDevitt, indicated that this three component plan was not in effect in other Bell states but

studies were being made to implement it there. He stated that it would be unlikely that the charges would be the same in each state since cost of providing this service would vary from state to state.

Mr. Hargrove stated that the position of the North Carolina Association of Broadcasters, Inc. was the same as that given in Docket No. P-100, Sub 27 proceeding - that position being that the effect of the requested increase in installation charges would have a devastating effect on the coverage of high school athletic events and urged the Commission to consider this fact in arriving at its determination whether or not the requested increased would be responsive to the public interest and convenience of the state.

Mr. Charles D. Land of the Telephone Rate Division of the Engineering Staff of the Utilities Commission offered as evidence an exhibit he had prepared showing an example of the way that the proposed charges in the application would apply to installation of residence telephones. He showed that a subscriber with residence main station service and two extensions would pay $62 under the new plan as opposed to $10 under the old plan to move to another residence location retaining the same service.

Upon completion of the hearing, it appeared to the Commission, and the Commission is of the opinion that the applicant failed to carry the burden of proof, by the evidence, to increase the non-recurring charges for telephone installations, changes, moves and reconnects to the level proposed. The Commission is of the opinion that the applicant has justified a partial increase in these charges and finds as a fact and concludes that the charges should be raised from the present $5 and $10 level to $7.50 and $12.50 which would produce $730,967.50 annually as testified to by witness Guttery.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That applicant, Southern Bell Telephone and Telegraph Company, be and hereby is, authorized to increase its non-recurring charges for telephone installations, changes, moves and reconnects to the rates prescribed and set forth in Appendix "A" hereto attached, to become effective for services rendered five days following the release of this order.

(2) That Southern Bell Telephone and Telegraph Company shall file necessary revised tariffs reflecting the charges as set out in Appendix "A" attached hereto, to be effective as of the dates prescribed above.

(3) That a sum of $730,967.50 resulting from the increased charges authorized in this proceeding be credited

to any additional revenues the Commission may grant in Docket No. P-55, Sub 681.

ISSUED BY ORDER OF THE COMMISSION.

This the 30th day of June, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
NON-RECURRING CHARGES
SOUTHERN BELL TELEPHONE AND TELEGRAPH COMPANY
DOCKET NO. P-55, SUB 701

Service Connection Charges

Residence Main - Not in Place	$12.50
Residence Main - In Place	7.50
Business Main - Not in Place	12.50
Business Main - In Place	7.50
Residence Extensions	7.50
Business Extensions	7.50
PBX Stations	7.50
Residence Bells, Gongs, Chimes, Tone Ringers	7.50
Business Bells, Gongs, Chimes, Tone Ringers	7.50

Other Service Charges

Residence Moves and Changes	7.50
Business Moves and Changes	7.50
Restorations	7.50

DOCKET NO. P-55, SUB 701

WOOTEN, COMMISSIONER, DISSENTING: The Commission through the device of the Majority Order in this case is continuing its historical position of arbitrarily establishing rate levels for uniform application of charges for non-recurring charges, for installations, changes, moves and reconnects, for all telephone companies operating under the jurisdiction of this Commission.

In Docket No. P-100, Sub 27, the Commission denied a uniform increase in the rates and charges for the services involved in the instant docket for application by all telephone companies operating under its jurisdiction. Subsequently, the Commission in Docket No. P-10, Sub 312 and Docket No. P-29, Sub 81 (Central Telephone Company and Lee Telephone Company, respectively) revised the then existing charges of $5.00 and $10.00 levels to $7.50 and $12.50 for application by both Central and Lee.

Here the Majority is establishing, arbitrarily, the same identical rates and charges for Southern Bell as those previously established for Central and Lee, and thereby

gives the clear indication of its intention in the future to grant the same rates to other companies as rate cases are filed and come on for hearing.

The evidence presented in this docket does not support the structure nor level of rates allowed by the Majority. This record discloses an entirely different level of costs and growth patterns than that presented in the Central and Lee cases (supra), and in no way justifies the establishment of identical rates and charges.

Historically, as the telephone industry grew from infancy to maturity, the Commission justifiably and arbitrarily established low rates and charges for the services here involved in order to promote and encourage the growth of this industry, without any or little consideration of the costs involved. Now that the industry has grown to its present status, it seems to me that the time has come to discard this method of establishing such rates, and move more in the direction of establishing the same with some reasonable relationship to the cost factors involved.

In order not to be misunderstood, I would not vote for the extremely high increases applied for by Southern Bell; to the contrary, the rate levels which I would establish would be substantially below those requested. Yet I would embrace, in part, the cost related information presented, in establishing such charges in a schedule of charges similar to that as outlined by the company.

Service charges in the past have not been cost related in any measure. The growing volume of station activity, increasing labor rates, and the frequency of movement by some subscribers emphasizes the need to make these charges more self-sustaining and to place the costs more directly on those customers causing the work to be performed, thereby minimizing the subsidy for such services presently being borne by the great majority of ratepayers for the small minority.

In conclusion, it seems to me in all fairness that the nice lady who desires to change the color of her phones every time she redecorates, or relocate her phones each time she moves her furniture should be required to pay a greater portion of the cost thereof, thereby relieving the general body of consumers of that burden.

Marvin R. Wooten, Commissioner

DOCKET NO. P-55, SUB 701

WELLS, COMMISSIONER, CONCURRING: I wish to emphasize that my vote in favor of the majority result has not been arbitrarily reached.

Telephone rate-making is, at best, an inexact science. Once having accepted this premise, we can view incongruous

results as not necessarily ineptly conceived. I am convinced that Bell did not carry the burden of proving that its proposed charges (in this docket) were reasonable or necessary. I am convinced, however, that the old charges are so low as to be unreasonable. So where do we go from there? Obviously to some higher level.

Having had the benefit of much information on the subject available to the Commission in this docket, in Docket No. P-10, Sub 312 and P-29, Sub 81, the Commission's official files, and cases from other jurisdictions, it seemed to me that a reasonable increase ought to be allowed in this docket. I did not want to vote for an increase which would inhibit consumers from obtaining initial service, nor an increase which would inhibit them from realizing maximum benefits from the efficient use of telephone instruments already installed. I did want to vote for an increase which would allow a higher level of cost recovery than has been allowed in the past. I did not want to vote to allow any charge whatsoever for disconnecting telephone service.

Having concluded that a higher level of charges should be allowed, consistently with the higher level of charges allowed in the two dockets mentioned above and alluded to in Commissioner Wooten's dissenting opinion, the question of whether such charges should be uniform for all companies operating in North Carolina presents itself, both to the operating companies and the Commission. It is a question which the Commission must surely continue to investigate, but for the time being, uniformity in this area of charges seems not inconsistent with the public interest; and considering the mobility of our population, as well as the great variations in other telephone rates in this State, perhaps a little uniformity describes its own virtue.

Hugh A. Wells, Commissioner

DOCKET NO. P-55, SUB 701

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Investigation of Non-Recurring Charges for	)
Installations, Changes, Moves and Reconnects for	) AMENDED
Southern Bell Telephone and Telegraph Company	) ORDER

BY THE COMMISSION: The Commission under date of June 30, 1972, issued its order authorizing Southern Bell Telephone and Telegraph Company to increase its non-recurring charges for telephone installations, changes, moves and reconnects.

In said order, a paragraph on page 6 read as follows:

> "For the benefit of representatives of telephone answering services, Mr. Guttery made the statement

that it was not the intent of these tariffs to apply the three component charges to the normal customers of the secretarial service. However, if the telephone answering service ordered an additional telephone for their benefit, they would be subject to the new tariff in that it is part of their administrative service which they use in the sale and conduct of their business."

More specifically, Mr. Guttery testified (page 42 of the official transcript) as follows:

"It is not the intent of these tariffs to apply these three component charges to the normal customers of the secretarial service. To be specific the customer of the secretarial answer service and it has main telephone service and has an extension off that main station to be answered by the secretarial service would not pay these charges. It is our intent that that charge would remain where it is now at $5 in North Carolina. The service that would be affected under these tariffs would be the person who has main telephone service terminated at the telephone answering board. Normally this is a person who does not have an office in town and operates more than one city and simply wants to have a listing and do business so he has the service terminated there. The service would apply to him but there is no intent to apply the increase to secretarial services."

The Commission's order of June 30, 1972, heretofore referred to, was mute on the matter of the service connection charges being applicable to the customers of secretarial service and, therefore, the rate increases allowed under said order became applicable to this class of customers in spite of the Commission's intentions not to make the increases applicable to customers of secretarial service.

The Commission believes, finds and concludes that its order of June 30, 1972, should be amended in accordance with Mr. Guttery's testimony as quoted above.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

(1) That the Commission's order of June 30, 1972, in Docket No. P-55, Sub 701, be amended to retain the $5 service connection charge on secretarial lines connected either directly to the telephone answering facility or through the concentrator - identifier equipment.

(2) That for all other services subscribed to by customers of answering service or of the answering service agency itself, including main station lines of clients terminated only in telephone answering facilities for answering purposes only, the new service connection charges specified in the June 30, 1972, order shall be applicable.

(3) That Southern Bell Telephone and Telegraph Company shall file the necessary revised tariffs reflecting the charges as set out above, to be effective for services rendered on and after July 6, 1972.

ISSUED BY ORDER OF THE COMMISSION.

This the 26th day of July, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-78, SUB 25

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Westco Telephone Company for Authority to Increase its Rates and Charges for Telephone Service in its Service Area within North Carolina.	)	ORDER ESTABLISHING RATES

HEARD: Community Service Building Auditorium, Sylva, North Carolina, June 27 and 28, 1972. Superior Courtroom, Buncombe County Courthouse, Asheville, North Carolina, June 29 and 30, 1972 Commission Hearing Room, One West Morgan Street Raleigh, North Carolina, July 11, 12, 13 and 14, 1972

BEFORE: Commissioners Hugh A. Wells, Presiding, Marvin R. Wooten, John W. McDevitt and Miles H. Rhyne

APPEARANCES:

For the Applicant:

Herbert L. Hyde and Roy Davis, Jr.
Van Winkle, Buck, Wall, Starnes & Hyde
Attorneys at Law
P. O. Box 7376, Asheville, North Carolina
For: Westco Telephone Company

For the Intervenors:

I. Beverly Lake, Jr.
Assistant Attorney General
Attorney General's Office
Ruffin Building
Raleigh, North Carolina
For: The Using and Consuming Public

For the Protestants:

Phillip H. Thomas
Attorney at Law
P. O. Box 356
Burnsville, North Carolina 28714
For: Protestants from Burnsville area

John T. Brock
Attorney at Law
P. O. Box 241, Mocksville, North Carolina
For: Protestants from Cooleemee area

For the Commission Staff:

William E. Anderson
Assistant Commission Attorney
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 14, 1972, Westco Telephone Company (hereinafter also styled "Westco") Weaverville, North Carolina, filed an Application with this Commission for authority to increase its rates and charges for local monthly telephone service, semi-public pay stations and PBX trunks, zone charges, non-published and non-listed numbers, service connections and move charges, and to eliminate four-party line mileage.

In its Application Westco alleged that it requires additional revenues of $685,156 based on the level of operations at June 30, 1971, proposing to obtain $664,616.00 of this increase by changes in its charges for the local monthly charges and the above general exchange tariff items, and to obtain $20,540.00 from increased service connection and move charges.

By its Order issued February 10, 1972, the Commission acknowledged the Application, suspending the effective date of the proposed rates for the purpose of an investigation into their justness and reasonableness and a hearing thereon; pursuant to the Commission's Order, Westco published notice of the present and proposed local monthly station rates, as follows:

	BUSINESS					RESIDENCE				
				Rural					Rural	
	1-Pty.	2-Pty.	4-Pty.	4-Pty.	Multi.	1-Pty.	2-Pty.	4-Pty.	4-Pty.	Multi.
Fontana and Hot Springs Exchanges										
Present	$ 9.65	$ 8.20	$ 6.65	$ 6.50	$ 6.50	$ 5.50	$ 4.75	$ 4.25	$ 4.25	$ 4.25
Proposed	16.05	12.90	9.90	15.15	8.50	8.25	7.75	6.50	7.80	5.75
Increase	6.40	4.70	3.25	8.65	2.00	2.75	3.00	2.25	3.55	1.50
Guntertown, Mars Hill and Marshall Exchanges										
Present	$10.65	$ 9.20	$ 7.65	$ 7.50	$ 7.50	$ 5.75	$ 5.00	$ 4.50	$ 4.50	$ 4.50
Proposed	18.05	14.90	11.90	17.15	10.50	8.75	8.25	7.00	8.30	6.25
Increase	7.40	5.70	4.25	9.65	3.00	3.00	3.25	2.50	3.80	1.75
Robbinsville Exchange										
Present	$ 9.65	$ 8.20	$ 6.65	$ 6.50	$ 6.50	$ 5.50	$ 4.75	$ 4.25	$ 4.25	$ 4.25
Proposed	18.05	14.90	11.90	17.15	10.50	8.75	8.25	7.00	8.30	6.25
Increase	8.40	6.70	5.25	10.65	4.00	3.25	3.50	2.75	4.05	2.00
Burnsville and Micaville Exchanges										
Present	$11.65	$10.20	$ 8.65	$ 8.50	$ 8.50	$ 6.00	$ 5.25	$ 4.75	$ 4.75	$ 4.75
Proposed	20.05	16.90	13.90	19.15	12.50	9.25	8.75	7.50	8.80	6.75
Increase	8.40	6.70	5.25	10.65	4.00	3.25	3.50	2.75	4.05	2.00
Bakersville, Garden City, Glenwood, Hayesville, Murphy, Sevier and Suit Exchanges										
Present	$12.65	$11.20	$ 9.65	$ 9.50	$ 9.50	$ 6.25	$ 5.50	$ 5.00	$ 5.00	$ 5.00
Proposed	22.05	18.90	15.90	21.15	14.50	9.75	9.25	8.00	9.30	7.25
Increase	9.40	7.70	6.25	11.65	5.00	3.50	3.75	3.00	4.30	2.25

Westco published other proposed increases as follows:

SCHEDULE OF OTHER PROPOSED INCREASES

EXTRA EXCHANGE ZONE CHARGES

Zones	ONE PARTY LINE Present	Proposed	Increase	TWO PARTY LINE Present	Proposed	Increase
A	$ .75	$ 1.00	$ .25	$ .50	$ .75	$ .25
B	2.00	2.50	.50	1.50	2.00	.50
C	3.25	4.00	.75	2.50	3.25	.75
D	4.50	5.50	1.00	3.50	4.50	1.00
E	5.75	7.00	1.25	4.50	5.75	1.25
F	7.00	8.50	1.50	5.50	7.00	1.50
G	8.25	10.00	1.75	6.50	8.25	1.75
H	9.50	11.50	2.00	7.50	9.50	2.00
I	10.75	13.00	2.25	8.50	10.75	2.25
J	12.00	14.50	2.50	9.50	12.00	2.50
K	13.25	16.00	2.75	10.50	13.25	2.75

	Present	Proposed	Increase
EXTRA EXCHANGE LINE MILEAGE Four Party line mileage per quarter or fraction thereof	$ .16	$ .00	($ .16)
NON-LISTED NUMBER	.50	1.00	.50
NON-PUBLISHED NUMBER	.50	1.00	.50
NON-RECURRING SERVICE CHARGES			
Main Station in Place	10.00	12.50	2.50
Main Station not in Place	10.00	12.50	2.50
Extensions, moves & changes restoration charge, bells and gongs	5.00	7.50	2.50

PRIVATE BRANCH EXCHANGE TRUNKS

The Company proposes to increase the rate charged from one and one half times to two times the individual line business or residence rate.

SEMI-PUBLIC TELEPHONE SERVICE

The Company proposes to increase the rate charged from the individual business line rate plus one dollar to one and one half times the individual business line rate on Guaranteed Semi-Public Paystation. On Partial-Pay, the increase is from the individual business line rate to one and one half times the individual business line rate.

On June 7, 1972, the Attorney General filed Notice of Intervention on behalf of the using and consuming public, and on June 12, 1972 the Commission issued its Order recognizing such intervention. The matter came on for hearing at the time and place designated by prior order. On May 15, 1972 when Westco filed the testimony of its expert witnesses, it filed revised accounting exhibits and rate schedules which had the effect of amending the Application to seek additional revenues of $547,957.

The Applicant offered the testimony and exhibits of the following witnesses: Mr. Lynn T. Moore, President and General Manager and also a member of the Board of Directors; Mr. Edwin H. Guffey, Commercial Manager; Mr. Stephen C. Jones, Assistant Vice President-Revenues for the Eastern Region of Continental Telephone Service Corporation; Mr. James M. Manz, Assistant Vice President-Finance for the Eastern Region, Continental Telephone Service Corporation Mr. John D. Russell Vice President American Appraisal Company and Mr. Warner T. Smith, President, Superior Continental Corporation, a wholly-owned subsidiary of Continental Telephone Corporation.

The following public witnesses testified: Mr. Carl Davis Moses; Mr. Frank R. Gordon; Mr. Neal N. Rogers; Mr. Todd Phillips; Mr. William M. Kur; Mr. Wally Avett; Mr. E. F. P. Brigham; Mr. George W. Conrad; Mr. A. D. Harrell; Miss Montess Byrd; Mrs. Thomas J. Greenlee; Mr. Fred Garland; Mr. Lloyd Fish; Mr. Rube Mooneyham; Mr. George Mooneyham; Mr. Dempsey Woody; Mr. Melvin Foster; Mrs. Bonnie Stamey; Mrs. Grady Coward; Mrs. Plato Duckett; Mr. C. O. Ellis; Mr. O. W. Deyton; Mr. Robert L. Rhynhart; Mrs. Mary Ohle; Mr. Edgar F. Hunter; Mr. Harlon Holcombe; Mr. George Roberts; Mr. Yates Bailey; Mr. Clayton Whitson; Mr. John Powers; Mr. Herbert Smith; Mr. Herbert Hawkins; Mr. Richard Wilde; Mr. David Gribble; Mr. Lester Murphy and Mr. E. J. Jenkins.

The Attorney General offered the testimony and exhibits of Dr. Charles P. Jones, Assistant Professor of Economics, North Carolina State University, Raleigh, North Carolina.

The Commission Staff presented the testimony and exhibits of the following witnesses: Mr. Allen Schock, Senior Accountant, Accounting and Economics Division; Mr. Vern W. Chase, Chief Engineer of the Telephone Rate Section, Engineering Division; Mr. William R. Cash, Utilities Engineer, Engineering Division; Mr. Gene A. Clemmons, Chief Engineer of the Telephone Service Section, Engineering Division and Mr. Donald R. Hoover, Staff Accountant, Accounting and Economics Division.

SYNOPSIS OF TESTIMONY

The following constitutes an abbreviated recapitulation of the evidence of record in this proceeding, arranged under major subject areas.

GENERAL OPERATIONS

Mr. Lynn T. Moore, as President and General Manager, testified for Westco regarding operations generally, service improvement, and inflationary trends. At the end of December, 1971 Westco served 15,468 customers with 18,214 telephones, the number of stations increasing from 5,536 in 1962 to 18,214 in 1971 or an increase of 229%. Since January 1, 1967 the company has added $8,054,960 to plant in service and since 1964 a total construction expenditure of $10,263,219. Westco's last rate increase was granted in 1964.

Both the 1967 Show Cause Order and the July, 1970 Order are still in effect. Work on all service items is either completed or in progress; the company has made progress in service to its customers but still has work to do.

The short term objective of Westco is to provide one-party service in the base rate area and four-party service in the rural areas in all exchanges by December, 1973. The long range objective is to provide one-party service throughout all the exchanges. At December 31, 1968, Westco had 58.54% of its customers on eight-party lines. By December 31, 1972 this will be reduced to 13.83% and be eliminated by December, 1973.

ALLOCATIONS AND TOLL REVENUES

Mr. Vern W. Chase testified for the Commission Staff regarding the allocation of investment and expenses between interstate and intrastate operations. In his opinion the separations formulae utilized by Westco and the resulting allocations appear to be reasonable; he had previously so advised the Commission Accounting Staff so that the same allocations could be utilized in the Commission Staff Audit.

Mr. Chase also reviewed the status of the toll settlements between the company and Southern Bell Telephone & Telegraph Company to determine the fact that toll separations and settlement changes on the company's operations during the test period. He testified that toll settlements between Westco and Western Carolina are first settled between Southern Bell and Western Carolina using the combined expenses and investments of Western Carolina and Westco; then this combined settlement is further divided between Western Carolina and Westco. He further testified that Western Carolina and Bell are in disagreement as to the amount of settlement for the last six months of the test period and that the amount of toll revenue the company will retain has not been finally determined.

Mr. Chase proposed four Options for the Commission's consideration in finding the likely toll revenues for Western Carolina and Westco. Option No. 1 is to adopt the toll revenues as calculated by Western for the test period, said toll revenues being $2,089,645. Option No. 2 is to

adopt the Western Carolina's cost studies covering the test period plus the estimated toll effect furnished by Bell in Docket Nos. P-100, Sub 26 and P-55, Sub 650 regarding toll revenues and adding the resulting figure to the intrastate private line toll revenue on Western Carolina's books resulting in an intrastate toll revenue for the test period of $2,129,006.

Option No. 3 employs the same basic approach as Option No. 1, but annualizes Southern Bell's rate of return to show the effect of the increases granted to that company in Docket Nos. P-100, Sub 26 and P-55, Sub 650, resulting in test period toll revenues of $2,161,658. Option No. 4 employs the same approach as in Option No. 1 except that an intrastate rate of return of 8.5% is used for Southern Bell, producing a combined intrastate toll revenue for the test period of $2,214,472. Mr. Chase further allocated the four Options between Western Carolina and Westco.

Mr. Chase explained that the problem in attempting to determine Westco's total revenues results primarily from the "cost study" lag which varies somewhat but it has been as long as a year and a half before a particular month toll revenues can be accurately determined. In Mr. Chase's opinion all toll settlements should be finally determined within three months after the close of any one month's business.

ACCOUNTING AND PRO FORMA ADJUSTMENTS

Mr. Stephen C. Jones offered testimony and exhibits regarding the financial operations of Westco Telephone Company. Total telephone plant in service was increased from the book figure to $16,637,401 after adjusting for an error in entering results of the original cost onto the books. The net North Carolina operating income figure for the test period resulting from Mr. Jones' audit is $634,602 which was increased to $688,115 by the various accounting and pro forma adjustments to put all items on an end of period (or later) basis including local service revenues, toll revenues, miscellaneous revenues, uncollectibles, operating expenses (including a 7% wage increase effective June 5, 1972, but with no corresponding change in revenues to reflect productivity gains), other expenses, depreciation expense and taxes. Of the $688,115 figure the portion allocated to intrastate operations is $470,880 for test period net operating intrastate income.

Mr. Jones testified that under present rates, Westco earned 7.00% on common equity during the test period, computed on total company operations and not on solely North Carolina intrastate operations, and that the return on the fair value of the company's property allocated to North Carolina intrastate operations for the test period under present rates is 3.53%.

Mr. Jones produced the requested rate increase figure of $547,025 as follows: by multiplying the intrastate net original cost plus allowances figure of $9,826,528 by the figure of 7.36% which is the weighted cost of money figure developed by Mr. Manz using a 13% cost of common equity; the result of that multiplication is a net operating income requirement of $723,232 or $252,352 more than his test period adjusted net operating income: after applying an attrition factor of .45881 to the net operating income, a gross revenue requirement of $550,015 results; the requested figure of $547,957 is the figure nearest to said gross revenue requirement resulting from rounding off unit prices to the nearest nickel over the large number of units represented by end of period customers.

Under the rates as requested the rate of return on the company's estimate of fair value on North Carolina intrastate investment would be 5.41% and the rate of return on total company common equity would be 11.81%.

Mr. Allen Schock offered testimony and exhibits for the Commission Staff reflecting his audit of Westco Telephone Company. His audit reflects annualized year-end net operating income for return for intrastate operations under present rates totaling $508,211 which would produce a rate of return on net investment plus allowance for working capital of 4.91%. Net plant in service at December 31, 1971, allocated to intrastate operations amounted to $10,240,657 and the working capital allowance under present rates totaled $114,761.

Under proposed rates the working capital allowance would total $66,231 and the rate of return on said net investment plus allowance for working capital under proposed rates would be 7.37% and the increase in the rate increase as filed would produce a rate of return of 13.81% on common equity.

Mr. Schock testified that in his audit the intrastate toll revenues used were based upon a rate of return to Bell Telephone on the toll settlement contract of 8.5% which was Staff Witness Chase's Option No. 4 and that if the Commission should find that the rate of return is something less than 8.5% the amount of toll revenue shown on Schock's Schedule No. 1 would be decreased.

RATE OF RETURN

Mr. James M. Manz offered testimony and exhibits for Westco regarding the cost of money to Westco. In his opinion the present rate of return on common equity for the calendar year 1971 as normalized by Mr. Jones, of only 7.00% is inadequate in view of Westco's current cost of money.

Mr. Manz based his opinion as to the fair rate of return on the cost of capital, the expectations of present investors, and comparable earnings. In his opinion, the

overall cost of capital is the cost of debt and equity in an appropriate capital structure. The capital structure of Westco at December 31, 1971 was 63.83% debt, 3.61% preferred stock and 32.56% common equity, which in his opinion is a reasonable capital structure and in his opinion a return of 12-1/2% to 13-1/2% is a reasonable rate of return for an investor in Westco common stock to expect. He based this opinion upon his exhibits indicating a 13.05% five year average rate of return of nineteen independent telephone companies which he picked for comparative purposes on the basis of a capitalization between $10,000,000 and $20,000,000 and a debt ratio of between 55% and 90%.

Based upon a return on common equity of 12-1/2% to 13-1/2%, the overall cost of capital would be 7.22% to 7.51% excluding interest free capital. The mean of those two figures would be 7.36% which would in his opinion be a fair rate of return.

Mr. Charles P. Jones offered testimony and exhibits for the Attorney General concerning cost of capital and fair rate of return. In his opinion the true opportunity cost of purchasing a stock or bond of a company is the expected return given up by not investing in one of the alternative investments of the same general risk class. Mr. Jones produced calculations based upon the opportunity cost concept as applied to the cost of equity capital, utilizing the proposition that the cost of capital is equal to the current dividend yield of common stock plus the rate of growth at which the investors expect dividends per share to increase, or the discounted cash flow (DCF) method.

In his opinion to arrive at a figure of future growth rate of dividends most knowledgable people in finance generally assume that investors are guided by the past to the extent that they expect to receive about the same rate of return in the future as they have received in the past provided that major changes in economic circumstances of the economy or the industry or the firm do not take place forcing a re-evaluation of expectations. In his opinion a good measure of investor expectations of future growth in dividends per share is past rates of growth in book value per share. He supported his testimony with a study of 36 comparable risk stocks from which he computed the book value growth rate and the dividend growth rates for 5, 10 and 15 year periods and obtained the arithmetical mean of the three different periods, finding the average dividend yields to be 2.74%, average book value growth rate to be 7.72% and average dividend growth rate to be 7.96%.

In his opinion the range for the cost of equity for Continental and therefore Westco is 10.46% to 10.70% or a mean of 10.58%. Mr. Jones testified that in his opinion the cost of equity capital to Westco should be in the lower part of the range. Including interim construction loans and deferred credits in addition to long-term debt, preferred stock and common equity Mr. Jones computed an overall cost

of capital of 6.43% which in his opinion is a fair rate of return.

Mr. Jones explained that although the debt equity ratio of a corporation has a bearing on the risk of its stock, he had not determined the debt equity ratio of the 36 companies contained in his comparative earnings exhibits because these 36 companies are risk-equivalent to the stock of Continental Telephone Corporation by virtue of having a beta coefficient of ±.05 of the beta coefficient of Continental and the equity ratio is included in determination of the beta coefficient.

REPLACEMENT COST

Mr. John Russell offered testimony and exhibits for Westco to the effect that the replacement cost of Westco's property in intrastate service as of the end of the test year is $20,173,928. In support of his testimony, Mr. Russell explained that he determined reproduction cost less depreciation by way of the trended original cost method which involves adjusting actual records of historical construction cost to current cost levels to the application of appropriate index numbers relating to price changes over a period of time. The vintage dollars to which the trend factors were applied were developed by the company on the basis of an inventory on the basis of an estimate by Westco personnel. The trend factors are based upon material and labor indices weighted together using an estimated ratio.

Russell further testified that he made a general observation of construction and condition and observed depreciation based upon those factors and also average age of equipment, type of facility and other factors. Mr. Russell testified that he made no adjustment for the level of service provided, for any inefficiencies existing in engineering and construction or for replacement by lower cost materials in place of original cost figures.

PLANNING AND ENGINEERING

Mr. Gene A. Clemmons testified for the Commission Staff regarding planning and engineering of Westco plant as it related to investment in telephone plant; that he had studied the impact of Westco's planning prior to 1967; that he had studied the company's station growth during the last four years and during the five year period 1967 and earlier; that the company's station growth rate during the past four year period had been substantially higher than during the previous five year period; that during this time of accelerated station growth the population of the Westco service area had declined; that the high growth rate since 1967 resulted primarily from Westco serving a demand which already existed prior to that time; that the company had significantly increased the percentage of one party service and reduced the percentage of party line service since the end of 1967; that the substantial amount of regrading

resulted from upgrading of subscribers who lived in the area prior to 1967 but were not regraded until the company was required to do so by the Commission subsequent to 1967; that the cost of meeting new service demands and regrade demands which existed prior to 1967 resulted in a higher plant investment than if the company had met these demands prior to 1967; that he made an estimate of the impact on the company's original cost under the condition that one-half of the investment made during the years 1968 to 1971 could and should have been made prior to 1967 to meet regrade and growth demands; that the estimated dollars required to do the job subsequent to 1967 resulted in the plant investment at the end of the test period being approximately $17,000,000 higher than it otherwise would have been; that this procedure did not make adjustment for any inefficiencies in the company's plant design or construction; that a substantial percentage of telephone plant had been retired since 1967 which has resulted in replacement at higher cost than would have been necessary had these retirements not been necessary; that the company's current planning and engineering relating to both inside and outside plant investment is reasonable; that the company has not been making use of aluminum shielded cable for buried installations which would result in a cable material cost reduction of approximately 15%; and that the company has only been making wide application of 26 and 24 gauge cable since 1971.

INTER-CORPORATE TRANSACTIONS

Mr. Warner T. Smith offered testimony and exhibits for Westco illustrating the inter-corporate transactions between Superior Continental Corporation (which is another wholly-owned subsidiary of Continental Telephone Corporation), Westco Telephone Company and Continental System Supply. The latter is the supply subsidiary supplying materials and service to the Continental system. During 1971 sales of Superior Continental Corporation totaled $109,865,915 of which 73% is attributable to materials manufactured by affiliates of Continental Telephone Corporation. Included in the cost of materials and supplies purchased by the operating companies by Continental System Supply is a mark-up which includes a profit objective of 5% of sales after taxes.

Mr. Donald R. Hoover testified for the Commission Staff that net operating income earned by Superior Continental Corporation on sales to Westco was $166,000 producing a rate of return on investment on sales to Westco ranging from 15.54% to 23.12%; that during the five year period 1967 to 1971 and that while a study of 13 other electronic and electric companies revealed a five year weighted average return on equity in the range of 12% while Superior's return on average common equity for the five year period averaged 25.14% with a high-low range of 30.82% in 1967 to 19.54% in 1971.

In his opinion if the Commission should find a 12% return on common equity to be fair and reasonable there remains as of December 31, 1971 in the plant accounts of Westco approximately $67,000 of profits to the supply affiliate from goods and services provided the affiliated utilities in excess of average profits of similarly type non-regulated companies. In addition to the above there were also profits of $12,119 earned on transactions between Westco and other wholly owned affiliates of Continental Telephone Corporation.

RATE DESIGN

Mr. Edwin H. Guffey testified for Westco regarding the proposed schedule of rates and charges filed by Westco in this proceeding. He testified that Westco used the total revenue requirement as developed by Mr. Jones as a starting point for proposed rates and then spread the increases over schedules which covered the largest groups of customers in order to keep the particular rate increases low.

He proposes to increase zone charges and eliminate four-party mileage. Zone unit increases of 25¢ in Zone A up to 75¢ in Zone J are proposed. In proposing an increase in non-recurring charges Westco proposes to increase installation charges from $10.00 to $12.50 and from $5.00 to $7.50. Four-party rural service is priced at 90% of the one-party rate for the same exchange.

Mr. Vern W. Chase testified for the Commission Staff regarding Westco's proposed rate design. He testified that in his opinion the zones which are currently one mile wide should be increased to two miles in width and that instead of increasing the zone charges they should be increased. Mr. Chase testified that he concurs with the company's proposal to eliminate four-party mileage but that Westco's proposal to charge more for four-party service outside the base rate area than for the same service within the base rate area is in his opinion discriminatory and is in effect a means of putting mileage charges back on for rural four-party customers.

SERVICE ADEQUACY

The Public witnesses testified in this docket regarding various facets of the company's rates and service including such specific service deficiencies as the failure rate on DDD calls, trouble report clearing time, excessive telephone troubles and excessive delays in completing service orders.

Mr. William R. Cash testified for the Commission Staff regarding the staff review of the quality of telephone service provided by Westco. Mr. Cash offered into evidence various exhibits reflecting field investigations and analysis of data and reports provided by the company concerning the company's service and progress in complying with the Commission's Order of July 15, 1970 containing 22

ordering paragraphs requiring improvements in the telephone service. Mr. Cash testified with regard to his opinion of the company's progress in meeting the Commission's service requirements paragraph by paragraph. Mr. Cash concluded that the company has made substantial progress in overall operations since the Commission's Order, but the service "is not yet at a fully adequate level".

Based upon the record and such judicial notice as is indicated herein, the Commission makes the following

FINDINGS OF FACT

1. That Westco is a duly franchised public utility providing telephone service to subscribers in fifteen local exchanges, is a duly created and existing corporation authorized to do business in North Carolina and is properly before the Commission in this proceeding for a determination as to the justness and reasonableness of its proposed rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. That the total net increases in rates and charges proposed by Westco would produce a total of $547,957 in additional gross annual revenue.

3. That the test period utilized by all parties and set by the Commission in this proceeding was the twelve months' period ending December 31, 1971.

4. That Westco's total annualized test period operating revenues in North Carolina under the present rates are $1,977,354 including intrastate toll revenues of $618,706 consisting of $625,596 produced by Option No. 3 offered into evidence by Staff Witness Chase, less $6,890 which is the intrastate portion of an accounting adjustment reflecting the differences in adjustments to operating expenses made by Westco and the accounting staff.

5. That Westco's reasonable intrastate operating expenses for the test period are $621,858 and total operating revenue deductions are $1,476,743, leaving net operating income of $500,611.

6. That the ratio of net income under the present rates to the original cost net investment in the utility's property in intrastate service at original cost in the amount of $10,356,886, including a reasonable allowance for working capital, i.e., the present rate of return on said net investment, is 4.83%.

7. That after fixed charges on the allocated intrastate portion of bonds and short-term notes of $346,520 and after dividends on similarly allocated preferred stock of $35,097, there remains net income for common equity, under present rates, in the amount of $167,121 that the allocated common equity investment in Westco at the end of the test period

was $3,085,199 producing a rate of return on common equity under the present rates at the end of the test period of 5.42%.

ORIGINAL COST

8. That the original cost of Westco's property used and useful in providing service to the public, within this State, as of the end of the test year, is $10,356,886 consisting of the utility's net investment in utility plant at original cost of $10,240,657, plus a reasonable working capital allowance of $116,229.

9. That Westco's net investment in utility plant providing service to the public within this State, as of the end of the test year at original cost of $10,240,657, consists of gross investment in utility plant in said intrastate service at the end of the test period at an original cost of $11,300,643, less $1,059,986, which is that portion of said plant that has been consumed by previous use recovered by depreciation expenses.

10. That the reasonable working capital allowance for Westco's test period operations of $116,229, consists of cash working capital allowance of $51,822, based on thirty (30) days' operation and maintenance expenses, material and supplies of $149,438, less average customer deposits of $12,401 and average tax accruals of $72,630.

REPLACEMENT COST

11. That the replacement cost of Westco's property in intrastate service as of the end of the test year is $11,600,000. In making this finding the Commission has considered the various factors indicated in the following discussion.

Westco's evidence of replacement cost was introduced by Company Witness John Russell of the American Appraisal Company, Inc. The Commission Staff presented related evidence regarding Westco's planning, engineering, construction and quality of service. Mr. Russell testified that he determined the reproduction cost less depreciation of Westco's property as of December 31, 1971 by way of the trended original cost method, which is based on actual records of historical construction costs adjusted to current cost levels through the application of appropriate index numbers relating to price changes over a period of time. The vintage dollars to which the trend factors were applied were developed by the Company on the basis of an inventory of the property.

Although the term "replacement cost" envisions replacing the utility plant in accordance with modern design and techniques and with the most up-to-date changes in the state of the art of telephony, evidence of "reproduction cost" by way of trended original cost as presented by Witness

Russell, envisions and is founded upon the premise of a duplication of the plant as is, with inefficiencies and outmoded obsolete design included. Accordingly, the weight given to the "trended original cost" study offered in this proceeding as evidence of replacement cost is based upon a detailed evaluation of the methodology employed.

The reproduction cost appraisal by way of a trended original cost study presented by Witness Russell has several deficiencies which make it unacceptable as the full basis for determining replacement cost. The approach taken by this witness is to trend all undepreciated vintage dollars of plant investment surviving on Westco's books at the end of the test period December 31, 1971. These surviving vintage dollars were determined on the basis of a plant inventory or, where historical records are not available, on the basis of an estimate by Westco personnel of the date of placement of the plant, said estimate having been accepted by the witness.

Mr. Russell then trended the vintage dollars by applying material and labor indices which he selected. These indices were weighted together using an estimated ratio of labor, material and overhead. Mr. Russell stated that the relative weighing of labor and material is based on Westco's experience generally and in some cases was supplemented by general industry information from his files. Consequently, his weighting, which is extremely important to the final trended result, is a composite of some Westco experience, general experience in the industry and judgment applied by the witness. These indices were weighted together by using a ratio of labor and material that is assumed to apply over the entire life span of the surviving plant. Witness Russell then trended the undepreciated original cost vintage dollars using his developed trending indices.

Witness Russell testified that he made a general observation of the type of construction and overall condition of the plant facilities and that, in addition to these physical inspections of outside plant, he considered the average age of equipment, the type of facility, Westco's plans for future construction and replacement, and his knowledge of telephone industry trends and practices. He further stated that his inspection in each exchange confirms that there was nothing unusual in the physical condition or construction standards from those normally encountered in the telephone industry; that he found equipment to be in service and well maintained; that the Company's facilities are modern, well designed within industry standards; that the major portion has been constructed in recent years; that only a very few facilities contain any degree of obsolescence, which he reflected in the condition study.

In considering Mr. Russell's evidence of replacement cost, several significant deficiencies are noted: he does not make any allowance in his trending of original book cost for inefficiencies which existed in the engineering and

construction of plant; his trending does not make allowance for existing plant deficiencies or inadequacies such as insufficient clearances which have required and will require substantial additional investment to correct; his trending makes no adjustment for the Westco's construction of plant at an extremely high rate during period 1968 - 1971 in a "catch-up" program, when both labor and material costs were significantly higher than in previous years; rather, he compounds this high cost by trending; and he makes no adjustment for higher booked prices of plant such as copper shielded cable which could be replaced with lower cost aluminum shielded cable. Witness Russell's trended original cost methods and the results produced are not fully acceptable as the complete basis for determining replacement cost, and although Mr. Russell's study produces some indication of replacement cost, the net trended cost of Westco's plant produced by such trending is an excessively high estimate of replacement cost for the reasons set out hereinabove.

FAIR VALUE

12. That the fair value of Westco's property used and useful in providing service to the public within this State as of the end of the test year is $10,900,000. In making this ultimate finding the Commission has considered both its finding as to the original cost of Westco's property, consisting of gross plant investment less that portion consumed by previous use recovered by depreciation, plus an allowance for working capital, and its finding as to replacement cost, as well as the following other evidentiary findings: (a) that the service of Westco in North Carolina is inadequate and that such a finding of inadequacy bears directly on the fair value of the Company's property, (b) that Westco's inadequate planning prior to 1968 and lack of adequate engineering and construction practices have resulted in higher current plant investment than would otherwise have been necessary, the Commission having weighed the impact of this poor planning on Westco's investment and having considered such planning in determination of fair value of Westco's property, (c) that Westco has made substantial and accelerated retirement of plant since 1964 which has resulted in a substantial reduction in the depreciation reserve from approximately 12% in 1964 to approximately 7% at the end of the test period, December 31, 1971, (d) that the necessity for making such accelerated retirements is a result of Westco's earlier inadequate planning, engineering and construction programs, and (e) that a normal telephone company depreciation reserve ratio, of which the Commission takes judicial notice from annual reports on file, is in the range of 20% or higher and that the 7% reserve ratio of Westco at the end of the test period is substantially lower than normal and reflects the retirement of abnormally large amounts of obsolete and deteriorated plant.

FAIR RATE OF RETURN

13. That assuming adequate service were being provided a rate of return on the fair value of Westco's property in the range of 6.75%, equating to a rate of return approximately of 11% on the equity as adjusted for the increment by which fair value exceeds original cost, would be a fair rate of return on fair value and a fair rate of return on said adjusted equity; said rates of return would equate to a return of approximately 7% on net investment in property at original cost and approximately 13% on Westco's common equity based on test year operations and the present debt-equity capital structure.

14. That Westco has made certain improvements in service pursuant to the Order of this Commission issued on July 15, 1970, in Docket No. P-58, Sub 61, finding the service to be "insufficient and inadequate" and requiring improvements to meet specific requirements and specific service levels; the overall level of service, however, has not yet been improved to a level which is adequate and efficient and reasonable, and falls short of the statutory requirement that it be adequate, efficient and reasonable.

The above finding is compelled by the evidence relating to the quality of telephone service presented in this proceeding by the Commission Staff, by 37 subscribers, and by Westco. Numerous specific levels of service were measured and evaluated by Commission Staff Witness Cash as a result of his investigation. Witness Cash testified that although improvements had been made in several service areas, the level of service was not at a fully adequate level. Service indices and technical measurements alone, however, are not the only evidence worthy of consideration in evaluating adequacy of service; consideration must be given to the degree of subscriber satisfaction with the service. An analysis of the subscriber complaints set forth in the record of this proceeding indicates that a number of the complaints were related to specific service deficiencies as found by Staff Witness Cash, such as failure rate on DDD calls, trouble report clearing time, excessive telephone troubles, excessive delays in completing service orders, incorrect billing and credit on toll calls, too many subscribers on party lines, and difficulties completing local calls. The ultimate finding of service inadequacy is amplified in the following evidentiary findings:

(a) That the areas in which there has been some improvement are as follows: (1) reduction in failure rates on intra and interoffice calls; (2) reduction in the backlog of held applications for new service and regrades; (3) reduction of party line service with more than four-parties per line; (4) availability of central office lines and terminals; (5) provision of equipment from a traffic standpoint; (6) clearing of subscriber trouble reports in the Eastern district; (7) directory assistance operator answer time, (8) reduction in reorders and trouble

reports since 1970 as shown on the DDD service bureau report; (9) pay station availability and maintenance; (10) correction of conditions in outside plant facilities where adequate clearances were not provided.

(b) That continued improvement in the quality of service is essential, particularly in the following areas: (1) further reduction of central office call failures in certain offices; (2) reduction of excessively high failure rates on direct distance dialing from central offices in the Western district; (3) elimination of service in excess of four-party lines; (4) balancing of traffic and central office lines and provision of adequate equipment from a traffic standpoint; (5) reduction of subscriber trouble reports per 100 stations to eight or less; (6) clearing 95% or more of the subscriber trouble reports within 24 hours; and (7) reduction of repeat trouble reports.

15. That because of Westco's presently inadequate service, a rate of return of 5.61% on the fair value of its property is just and reasonable; that said 5.61% rate of return on fair value will equate to a rate of return of 7.61% on common equity as adjusted for the fair value increment and a 9.00% rate of return on test period common equity; that although the 7.61% rate of return on adjusted common equity is below the return on common equity which would be found reasonable for this utility equity investment if the service were adequate, the net operating income which will be produced by application of the schedule of rates necessary to produce the rate of return on fair value and the rates of return on common equity set out above will be sufficient to cover all test year fixed charges and also preferred dividends, and based on the present quality of service, such a rate of return is fair and a schedule of rates producing revenues essential to such a rate of return is just and reasonable, and telephone rates producing revenues for any higher rate of return on fair value or on common equity would be unjust and unreasonable at this time.

16. That the rate increases proposed in this docket in excess of those herein found necessary to produce additional local service revenues of $241,005 are unjust and unreasonable, as they would produce rates of return in excess of those herein found to be just and reasonable.

17. That the schedule of local monthly rates, general exchange tariff item rates, and other charges prescribed and set forth in Appendix "A" attached hereto which will produce additional gross revenue of $241,005 from end of test period customers provides a just and reasonable method of obtaining the required additional gross revenue and thus establishes just and reasonable rates and any particular rate increase above those rates as set out therein would be unjust and unreasonable on the record herein.

PRICE COMMISSION

18. That the increases authorized herein are cost justified and do not reflect future inflationary expectations; each of the expenses found reasonable in this proceeding is an actual expense in effect at the time of the hearing and none are based on predictions of any future increases in inflation.

19. That the increases are the minimum required to assure continued, adequate and safe service and to provide the necessary expansion to meet future requirements. Westco's construction and service improvement program requires substantial amounts of additional capital to be raised and without the increases approved herein it could not compete in the capital market for funds necessary to an improvement program.

20. That the increases will achieve the minimum rate of return needed under the particular circumstances of this case to attract capital at reasonable costs and not to impair Westco's credit. The record clearly establishes that a rate of return on test period common equity of at least 9.00% is essential under present economic conditions.

21. That the increases do not reflect labor costs in excess of those allowed by policies of the Price Commission.

22. That the increases take into account expected and obtainable productivity gains as determined under Price Commission policies by means of setting them off against contracted wage increases, in that the Order does not allow for any increases in wages after the hearings held herein and the future wage increases in the annual wage contract, but not allowed as expenses for the test period, will absorb anticipated productivity gains; the methods utilized by the Commission in this hearing of a firm test period, with no adjustment for future increases and expenses and adjusting only for known changes in expenses and revenues, has, in fact, measured the productivity gains which have been achieved by Westco in the test period fixed in this proceeding.

23. That the procedures of the Utilities Commission herein provided a reasonable opportunity for participation by all interested persons or their representatives in this proceeding; the using and consuming public was represented by the Attorney General and by private counsels; due public notice was given of the hearing, and all parties who requested to be heard either as formal parties of record or through presentation of public statements were admitted to the proceeding.

Whereupon the Commission reaches the following

CONCLUSIONS

The level of telephone service now being provided by Westco Telephone Company to subscribers in its service area falls short of the statutory requirement that service be adequate, efficient and reasonable, and it must be improved with respect to reliability and dependability of service to the subscribers. The Commission considered the level of service in Docket No. P-58, Sub 61, a Show Cause proceeding, and during the present case. The Commission had anticipated that Westco Telephone Company would take aggressive and thorough action to provide a level of telephone service that was efficient and dependable to its customers. However, the weight of the evidence in this case indicates that the service has not reached such a level. The Commission concludes that specific service improvements required in the Commission's July 15, 1970, Order in Docket No. P-58, Sub 61 must be effectuated, and the specific service levels provided therein should be met as specified and the service improvement plan should be expedited where possible.

The failure or inability of the Westco Telephone Company to provide adequate, efficient and reasonable service at the present time is a material factor to be considered in establishing just and reasonable rates for the utility to charge, and the subscribers to pay, for the service being provided. Accordingly, the Commission is entering this Order in the docket establishing rates which are lower than those rates which would have been approved and established if the service had been found to be adequate.

The Commission concludes that the rates established herein will generate additional revenues in an amount sufficient to produce net operating income which will cover test year fixed charges and all preferred dividends and that said net operating income will be reflected in rates of return on fair value and on common equity as adjusted for fair value increment which will be rates of return that are fair to the utility and to the public considering the service being provided, but which do not reflect any rate of return increment for sound management as would be included in rates requested by Westco and the rates that would be approved in this Order if service were presently adequate.

The Commission concludes that the rate increases which are approved herein for the purpose of producing additional gross operating revenues of $241,329.56 should be allocated to rates and charges for local monthly telephone service, semipublic pay stations and PBX trunks, zone charges, non-published and non-listed numbers, service connections and move charges as follows: (a) Non-listed and non-published numbers, $3,564.00, (b) Service connection charges, $10,182.50, (c) PBX trunks, at 2X the B-1 rate, $4,613.52, (d) Semi-public pay stations, at 1.5X the B-1 rate, $545.52; and (e) Monthly local service increases,

$11,906.52, by the elimination of four-party mileage and reduction of one and two-party zone rates.

In considering accounting and pro forma adjustments, the Commission concludes that Westco's adjustment for wage increases outside the test period should be excluded inasmuch as there is no evidence of record from which to find anticipated productivity gains and that the Commission Staff's utilization of Witness Chase's Option No. 4 should be disallowed, the Commission having substituted in lieu thereof his Option No. 3.

The following tables, based upon the Findings of Fact, illustrate the calculations for the $241,329.56 additional revenue found to be necessary, just and reasonable from the records in this proceeding:

WESTCO TELEPHONE COMPANY
STATEMENT OF RETURN
INTRASTATE OPERATIONS

	Present Rates	Increase Approved	After Increase
Operating Revenues-			
Local service	$ 1,320,449	$241,005	$ 1,561,454
Toll service	618,706		618,706
Miscellaneous	45,130		45,130
Uncollectibles	(6,931)	(410)	(7,341)
Total operating revenues	1,977,354	240,595	2,217,949
Operating Revenue-Deductions			
Operating expenses:			
Maintenance	286,341		286,341
Traffic	19,932		19,932
Commercial	136,769		136,769
General office	156,207		156,207
Other	22,609		22,609
Total operating expenses	621,858		621,858
Depreciation	575,245		575,245
Taxes - other than income	205,963	14,436	220,399
State income taxes	8,401	13,570	21,971
Federal income taxes	65,276	102,043	167,319
Total operating revenue deductions	1,476,743	130,049	1,606,792
Net operating income	500,611	110,546	611,157
Investment in Plant in Service			
Telephone plant in service	11,300,643		11,300,643
Less: Depreciation reserve	1,059,986		1,059,986
Net investment in plant in service	10,240,657		10,240,657

Allowance for Working Capital			
Materials and supplies	149,438		149,438
Cash (1/12 of operating expenses)	51,822		51,822
Less: Average tax accruals	72,630	21,345	93,975
Average customer deposits	12,401		12,401
Total	116,229	(21,345)	94,884
Net investment in telephone plant in service plus allowance for working capital	10,356,886		10,335,541
Rate of return	4.83%		5.91%
Fair value rate base	10,900,000		10,900,000
Return	4.59%		5.61%

STATEMENT OF RETURN ON COMMON EQUITY
NORTH CAROLINA INTRASTATE OPERATIONS

	Present Rates	After Increase	Adjusted for Fair Value Increment
Net operating income for return	$ 500,611	$ 611,157	$ 611,157
Other income - net	48,127	48,127	48,127
Amount available for fixed charges	548,738	659,284	659,284
Fixed charges	346,520	346,520	346,520
Adjusted net income	202,218	312,764	312,764
Preferred dividends	35,097	35,097	35,097
Amount available for common equity	167,121	277,667	277,667
Common equity	3,085,199	3,085,199	3,649,658
Return on common equity	5.42%	9.00%	7.61%

CAPITAL STRUCTURE
(NORTH CAROLINA INTRASTATE)

Type of Capital	Amount	% of Total	Dividends & Interest
Long-term debt	$ 6,055,302	54.50	$285,417
Short-term debt	1,163,868	10.47	61,103
Interest free	464,057	4.18	
Common equity	3,085,199	27.77	
Preferred stock	342,315	3.08	35,097
Total capitalization	$11,110,741	100.00	$381,617

The Utilities Commission has adopted rules and regulations to recognize the criteria for price regulation under the National Economic Stabilization Act as a certificated regulatory Commission under the rules of the Federal Price Commission, 6 Code of Federal Regulations, §300,16a, and has published its rules and regulations pursuant thereto in Chapter 13 of the Utilities Commission's Rules and Regulations. The criteria and policies of the Price Commission, as adopted in said Chapter 13 of the Utilities Commission's Rules, have been considered by the Commission and in view of the relevant Findings of Fact hereinabove, the Commission concludes that the increases allowed herein are in compliance with the Economic Stabilization Act of 1970.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant Westco Telephone Company be, and hereby is, authorized to increase the North Carolina local exchange monthly telephone service rates, general exchange tariff item rates and other charges to produce annual gross revenues not exceeding $2,217,949 by applying total increases in said rates and charges in the amount of $241,005 based upon stations and operations as of December 31, 1971 as in the schedule of rates and charges hereinafter set forth in Appendix "A".

2. That the schedule of local exchange telephone rates, general exchange tariff item rates, and other charges prescribed and set forth in Appendix "A" attached hereto be, and hereby is, established as the schedule of rates and charges to be effective on bills rendered in advance on the next regular billing date five days following the release of this Order, or after such time as said tariff revisions have been filed if such filing is not accomplished within said five days.

3. That Westco Telephone Company shall file tariff revisions reflecting said increases, to be effective as of the dates prescribed above.

4. That Westco Telephone Company be, and hereby is, directed that the one and two-party zone rates set out in Appendix "A" attached hereto shall not become effective at

the Bakersville and Robbinsville exchanges until the first quarter of 1973, and at the Burnsville and Murphy exchanges until the fourth quarter of 1973, in accordance with the zone conversion schedules previously filed, and in the interim, one and two-party mileage as now authorized shall continue to be effective.

5. That Westco Telephone Company be, and hereby is, directed to take aggressive action to complete the specific service improvements and provide the service levels required by the Commission's Order of July 15, 1970, in Docket No. P-58, Sub 61.

ISSUED BY ORDER OF THE COMMISSION.

This 21st day of November, 1972.

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

APPENDIX "A"
WESTCO TELEPHONE COMPANY
DOCKET NO. P-78, SUB 25

Exchange Rate Grouping
Main Stations & PBX Trunks in Local
Calling Area

STATEWIDE RATE SCHEDULE

Group	Business				Residence			
	1-Pty.	2-Pty.	4-Pty.	Multi.	1-Pty.	2-Pty.	4-Pty.	Multi.
0 - 4,000	13.40	11.90	10.90	10.40	7.10	6.35	5.85	5.85
4,001 - 8,000	14.40	12.90	11.90	11.40	7.35	6.60	6.10	5.85
8,001 - Up	15.40	13.90	12.90	12.40	7.60	6.85	6.35	6.10

Rates by Exchanges

Exchange	Business				Residence			
	1-Pty.	2-Pty.	4-Pty.	Multi.	1-Pty.	2-Pty.	4-Pty.	Multi.
Bakersville	14.40	12.90	11.90	11.40	7.35	6.60	6.10	5.85
Burnsville	13.40	11.90	10.90	10.40	7.10	6.35	5.85	5.60
Fontana	13.40	11.90	10.90	-	7.10	6.35	5.85	-
Garden City	14.40	12.90	11.90	-	7.35	6.60	6.10	-
Glenwood Providence	14.40	12.90	11.90	-	7.35	6.60	6.10	-
Guntertown	13.40	11.90	10.90	-	7.10	6.35	5.85	-
Hayesville	14.40	12.90	11.90	-	7.35	6.60	6.10	-
Hot Springs	13.40	11.90	10.90	-	7.10	6.35	5.85	-
Marshall	13.40	11.90	10.90	-	7.10	6.35	5.85	-
Mars Hill	13.40	11.90	10.90	-	7.10	6.35	5.85	-
Micaville	13.40	11.90	10.90	-	7.10	6.35	5.85	-
Murphy	14.40	12.90	11.90	-	7.35	6.60	6.10	-
Robbinsville	13.40	11.90	10.90	10.40	7.10	6.35	5.85	5.60
Sevier	14.40	12.90	11.90	-	7.35	6.60	6.10	-
Suit	14.40	12.90	11.90	-	7.35	6.60	6.10	-

Extra Exchange Zone and Mileage Charges

One and Two Party Zone Charges		Monthly Rate	
Zone	Mileage	1-Party	2-Party
1	0 - 1 1/2	.60	.30
2	1 1/2 - 3 1/2	2.20	1.10
3	3 1/2 - 5 1/2	3.80	1.90
4	5 1/2 - 7 1/2	5.40	2.70
5	7 1/2 - 9 1/2	7.00	3.50
6	Beyond 9 1/2	8.60	4.30

Four Party Mileage - 0 -

Number Services

Non-Published Number	1.00
Non-Listed Number	1.00

Private Branch Exchange Service

PBX Trunks - 2 times Business one party rate

Semi-Public Telephone Service

Guarantee Service
Basic Guarantee is 1.5 times Business one party rate

Partial-Pay
Rate is 1.5 times Business one party rate

Service Connection Charges

Instrumentalities not in Place	
Main Stations or PBX Trunks, each	12.50
Extension Stations, PBX Stations, Extension Bell and Gongs	7.50
Instrumentalities in Place	
For Main Station Plus any Other Portion of Entire Service Utilized	7.50
PBX Station or Extension Stations, each	7.50
Restoration of Service	7.50
Moves and Changes	7.50

DOCKET NO. P-78, SUB 25

WELLS, COMMISSIONER, CONCURRING IN PART AND DISSENTING IN PART: There are three basic issues in this rate case which have not been satisfactorily resolved: (1) Service; (2) Rates; and (3) Rate of Return. Some resolution may be found in this or other rate cases for issues (2) and (3) above; the issue of service seems inexpiable in a rate case. Westco's service is inadequate and inefficient.

Westco's rates are high. Westco's rate of return is low. All of these matters go directly to the skill and prudence of management, and cannot be explained away by any excuses, circumstances, and/or problems that management could not have solved or could not promptly solve, given the skill and prudence to be expected of them.

Over and over and over again this Commission has struggled with the management of Westco in an effort to achieve good telephone service at reasonable rates. While it would seem that perhaps we have not failed completely, it is clear that our efforts have hardly resulted in overwhelming success. Were I a Westco subscriber, I expect I would be wondering if there is any justice in the telephone business.

I have voted for the rates in this Order with much misgiving and only because I seek to go the last mile with this Company before lowering the boom; as far as I am concerned, the message to the management of this Company - indeed to its ultimate management in the person of its owner, Continental Telephone Corporation - cannot be too blunt. The people of Western North Carolina - indeed, this Commonwealth itself - deserve far better than you have given; and unless you are willing and/or able to do the job and do it right, to the end that your subscribers may have "adequate, economical, and efficient" telephone service (see G.S. 62-2), then the job should be turned over to somebody else.

Hugh A. Wells, Commissioner

DOCKET NO. P-58, SUB 85

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of Western Carolina Telephone Company for Authority to Increase Its Rates and Charges for Telephone Service in Its Service Area within North Carolina	)	ORDER ESTABLISHING RATES

HEARD IN: Community Service Building Auditorium, Sylva, North Carolina, June 27 and 28, 1972. Superior Courtroom, Buncombe County Courthouse, Asheville, North Carolina June 29 and 30, 1972. Commission Hearing Room, One West Morgan Street, Raleigh, North Carolina, July 11, 12, 13 and 14, 1972

BEFORE: Commissioners Hugh A. Wells, Presiding, Marvin R. Wooten, John W. McDevitt and Miles H. Rhyne

APPEARANCES:

For the Applicant:

Herbert L. Hyde and Roy Davis, Jr.
Van Winkle, Buck, Wall, Starnes & Hyde
Attorneys at Law
P. O. Box 7376, Asheville, North Carolina
For: Western Carolina Telephone Company

For the Intervenors:

I. Beverly Lake, Jr.
Assistant Attorney General
Attorney General's Office
Ruffin Building
Raleigh, North Carolina
For: The Using and Consuming Public

For the Commission Staff:

William E. Anderson
Assistant Commission Attorney
Ruffin Building
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: On January 14, 1971, Western Carolina Telephone Company (hereinafter also styled "Western Carolina"), Weaverville, North Carolina, filed an Application with this Commission for authority to increase its rates and charges for local monthly telephone service, semi-public pay stations and PBX trunks, zone charges, non-published and non-listed numbers, service connections and move charges, and to eliminate four-party line mileage.

In its Application Western Carolina alleged that it requires revenues of $721,428.00 based on the level of operations at June 30, 1971, proposing to obtain $698,311.00 of this increase by changes in its charges for the local monthly charges and the above general exchange tariff items, and to obtain $23,117.00 from increased service connection and move charges.

By its Order issued February 10, 1972, the Commission acknowledged the Application, suspending the effective date of the proposed rates for the purpose of an investigation into their justness and reasonableness and a hearing thereon; pursuant to the Commission's Order, Western Carolina published notice of the present and proposed local monthly station rates, as follows:

	BUSINESS					RESIDENCE				
				Rural					Rural	
	1-Pty.	2-Pty.	4-Pty.	4-Pty.	Multi.	1-Pty.	2-Pty.	4-Pty.	4-Pty.	Multi.
Cashiers Exchange										
Present	$12.50	$11.25	$10.00	$ 8.50	$ 8.50	$ 7.05	$ 6.25	$ 5.75	$ 5.75	$5.75
Proposed	17.60	14.10	11.20	16.70	7.75	8.35	7.40	6.45	7.75	4.95
Increase	5.10	2.85	1.20	8.20	(.75)	1.30	1.15	.70	2.00	(.80)
Highlands Exchange										
Present	$13.00	$11.75	$10.50	$ 9.00	$ 9.00	$ 7.15	$ 6.35	$ 5.85	$ 5.85	$5.85
Proposed	18.60	15.10	12.20	17.70	8.75	9.10	8.15	7.20	8.50	5.45
Increase	5.60	3.35	1.70	8.70	(.25)	1.95	1.80	1.35	2.65	(.40)
Bryson City, Cherokee Exchanges										
Present	$13.50	$12.25	$11.00	$ 9.50	$ 9.50	$ 7.25	$ 6.45	$ 5.95	$ 5.95	$5.95
Proposed	19.60	16.10	13.20	18.70	9.75	9.85	8.90	7.95	9.25	5.95
Increase	6.10	3.85	2.20	9.20	.25	2.60	2.45	2.00	3.30	-
Cooleemee Exchange										
Present	$ 7.50	$ 6.00	$ 5.00	$ 5.00		$ 5.75	$ 4.50	$ 3.75	$ 3.75	
Proposed	19.60	16.10	13.20	18.70		9.85	8.90	7.95	9.25	
Increase	12.10	10.10	8.20	13.70		4.10	4.40	4.20	5.50	

Cullowhee, Franklin, Sylva Exchanges

Present	$14.00	$12.75	$11.50	$10.00	$10.00	$ 7.35	$ 6.55	$ 6.05	$ 6.05	$6.05
Proposed	19.60	16.10	13.20	18.70	9.75	9.85	8.90	7.95	9.25	5.95
Increase	5.60	3.35	1.70	8.70	(.25)	2.50	2.35	1.90	3.20	(.10)

Andrews, Marion, Old Fort Exchanges

Present	$14.00	$12.75	$11.50	$10.00	$10.00	$ 7.35	$ 6.55	$ 6.05	$ 6.05	$6.05
Proposed	20.60	17.10	14.20	19.70	10.75	10.60	9.65	8.70	10.00	6.45
Increase	6.60	4.35	2.70	9.70	.75	3.25	3.10	2.65	3.95	.40

Weaverville Exchange

Present	$15.50	$14.25	$13.00	$11.75	$11.75	$ 7.65	$ 6.85	$ 6.35	$ 6.35	$6.35
Proposed	23.60	20.10	17.20	22.70	13.75	12.85	11.90	10.95	12.25	7.95
Increase	8.10	5.85	4.20	10.95	2.00	5.20	5.05	4.60	5.90	1.60

( ) Represents decrease in rates

Western Carolina published other proposed increases as follows:

SCHEDULE OF OTHER PROPOSED INCREASES

EXTRA EXCHANGE ZONE CHARGES

	ONE PARTY LINE		
Zones	Present	Proposed	Increase
A	$ .75	$ 1.00	$ .25
B	2.00	2.50	.50
C	3.25	4.00	.75
D	4.50	5.50	1.00
E	5.75	7.00	1.25
F	7.00	8.50	1.50
G	8.25	10.00	1.75
H	9.50	11.50	2.00
I	10.75	13.00	2.25
J	12.00	14.50	2.50
K	13.25	16.00	2.75

	TWO PARTY LINE		
Zones	Present	Proposed	Increase
A	$ .50	$ .75	$ .25
B	1.50	2.00	.50
C	2.50	3.25	.75
D	3.50	4.50	1.00
E	4.50	5.75	1.25
F	5.50	7.00	1.50
G	6.50	8.25	1.75
H	7.50	9.50	2.00
I	8.50	10.75	2.25
J	9.50	12.00	2.50
K	10.50	13.25	2.75

	Present	Proposed	Increase
EXTRA EXCHANGE LINE MILEAGE			
Four party line mileage per quarter or fraction thereof	$ .16	$ .00	($ .16)
NON-LISTED NUMBER	.50	1.00	.50
NON-PUBLISHED NUMBER	.50	1.00	.50
NON-RECURRING SERVICE CHARGES			
Main Station in Place	10.00	12.50	2.50
Main Station not in Place	10.00	12.50	2.50
Extensions, moves & changes restoration charge, bells and gongs	5.00	7.50	2.50

PRIVATE BRANCH EXCHANGE TRUNKS

The Company proposes to increase the rate charged from one and one half times to two times the individual line business or residence rate.

SEMI-PUBLIC TELEPHONE SERVICE

The Company proposes to increase the rate charged from the individual business line rate plus one dollar to one and one half times the individual business line rate on Guaranteed Semi-Public Paystation. On Partial-Pay, the increase is from the individual business line rate to one and one half times the individual business line rate.

On June 7, 1972, the Attorney General filed Notice of Intervention on behalf of the using and consuming public, and on June 12, 1972 the Commission issued its Order recognizing such intervention. The matter came on for hearing at the time and place designated by prior order. On May 15, 1972, when Western Carolina filed the testimony of its expert witnesses, it filed revised accounting exhibits and rate schedules which had the effect of amending the Application to seek additional revenue of $788,173.

The Applicant offered the testimony and exhibits of the following witnesses: Mr. Lynn T. Moore, President and General Manager and also a member of the Board of Directors; Mr. Edwin H. Guffey, Commercial Manager; Mr. Stephen C. Jones, Assistant Vice President - Revenues for the Eastern Region of Continental Telephone Service Corporation; Mr. James M. Manz, Assistant Vice President - Finance for the Eastern Region, Continental Telephone Service Corporation and Mr. John D. Russell, Vice President American Appraisal Company, and Mr. Warner T. Smith, President, Superior Continental Corporation, a wholly-owned subsidiary of Continental Telephone Corporation.

The following public witnesses testified: Mr. G. Maxwell Armor; Mr. Worth C. Sherrill; Mr. C. E. Wooliever; Mrs. Carrie Cagle; Mr. Ralph V. Angel; Mrs. Lyndon Buchanan; Mr. Bennie C. Reese; Mr. Randall Billings; Mrs. Clint Allen; Mrs. Lula Sanders; Mr. R. S. Jones; Mrs. Leona Maycock; Mr. Ned J. Tucker; Mrs. Fred J. Hooper; Mrs. Joyce Anita Cooper; Mrs. C. E. Brown; Mr. F. L. Rogers; Mr. Russell Garven; Mr. C. L. Clark; Mr. George P. Sprague; Mr. Lloyd B. Leonard; Mrs. Claudia Green; Mr. James Donald Williams; Mr. Thomas G. Silva; Mr. C. S. Cooper; Mr. Paul Richardson; Mr. Jack H. Harmon; Mrs. Velma McCurry; Mr. Harold Sluder; Mr. Curtis Pittner; Mr. Bernhard Coinrad; Mr. Richard Young; Mr. John Yoder, Jr.; Mr. Brandon K. Glascow; Mrs. W. T. Sheppard; Mrs. Jo Silva Parris; Mrs. Hazel McNeill; Mr. John T. Barber; Mr. Granville Spry; Mr. John E. Boring; Mr. Bob Barker; Mr. C. E. George and Mr. John Rogacz. Sworn written statements were filed with the Commission by the following persons: Mr. Harold Warstler, Mrs. James Waldroop, Mrs.

John L. Crawford and Mrs. W. M. Byrd, and admitted into evidence without objections.

The Attorney General offered the testimony and exhibits of Dr. Charles P. Jones, Assistant Professor of Economics, North Carolina State University, Raleigh, North Carolina.

The Commission Staff presented the testimony and exhibits of the following witnesses: Mr. William E. Carter, Jr., Senior Accountant, Accounting and Economics Division; Mr. Vern W. Chase, Chief Engineer of the Telephone Rate Section, Engineering Division; Mr. William R. Cash, Utilities Engineer, Engineering Division; Mr. Gene A. Clemmons, Chief Engineer of the Telephone Service Section, Engineering Division and Mr. Donald R. Hoover, Staff Accountant, Accounting and Economics Division.

SYNOPSIS OF TESTIMONY

The following constitutes an abbreviated recapitulation of the evidence of record in this proceeding, arranged under major subject areas.

GENERAL OPERATIONS

Mr. Lynn T. Moore, as President and General Manager, testified for Western Carolina regarding operations generally, service improvement, and inflationary trends. At the end of December, 1971 Western Carolina served 23,566 customers with 30,434 telephones, the number of stations increasing from 13,671 in 1962 to 30,434 in 1971 or an increase of 145%; the number of employees has increased from 204 in 1967 to 332 in 1971 or an increase of 61%. Since January 1, 1967 the company has added $19,478,653 to plant in service and since 1964 a total construction expenditure of $23,843,959. Western Carolina's last rate increase was granted in 1964.

Both the 1967 Show Cause Order and the July, 1970 Order are still in effect. Work on all service items is either completed or in progress; the company has made progress in service to its customers but still has work to do.

The short term objective of Western Carolina is to provide one-party service in the base rate area and four-party service in the rural areas in all exchanges by December, 1973. The long range objective is to provide one-party service throughout all the exchanges. At December 31, 1968, Western Carolina had 32.93% of its customers on eight-party lines. By December 31, 1972 this will be reduced to 7.7% and be eliminated by December, 1973.

ALLOCATIONS AND TOLL REVENUES

Mr. Vern W. Chase testified for the Commission Staff regarding the allocation of investment and expenses between interstate and intrastate operations. In his opinion the

separations formulae utilized by Western Carolina and the resulting allocations appear to be reasonable; he had previously so advised the Commission Accounting Staff so that the same allocations could be utilized in the Commission Staff Audit.

Mr. Chase also reviewed the status of the toll settlements between the company and Southern Bell Telephone & Telegraph Company to determine the effect of toll separations and settlement changes on the company's operations during the test period. He testified that toll settlements between Westco and Western Carolina are first settled between Southern Bell and Western Carolina using the combined expenses and investments of Western Carolina and Westco; then this combined settlement is further divided between Western Carolina and Westco. He further testified that Western Carolina and Bell are in disagreement as to the amount of settlement for the last six months of the test period and that the amount of toll revenue the company will retain has not been finally determined.

Mr. Chase proposed four Options for the Commission's consideration in finding the likely toll revenues for Western Carolina and Westco. Option No. 1 is to adopt the toll revenues as calculated by Western for the test period, said toll revenues being $2,089,645. Option No. 2 is to adopt the Western Carolina's cost studies covering the test period plus the estimated toll effect furnished by Bell in Docket Nos. P-100, Sub 26 and P-55, Sub 650 regarding toll revenues and adding the resulting figure to the intrastate private line toll revenue on Western Carolina's books resulting in an intrastate toll revenue for the test period of $2,129,006.

Option No. 3 employs the same basic approach as Option No. 1, but annualizes Southern Bell's rate of return to show the effect of the increases granted to that company in Docket Nos. P-100, Sub 26 and P-55, Sub 650, resulting in test period toll revenues of $2,161,658. Option No. 4 employs the same approach as in Option No. 1 except that an intrastate rate of return of 8.5% is used for Southern Bell, producing a combined intrastate toll revenue for test period of $2,214,472. Mr. Chase further allocated the four Options between Western Carolina and Westco.

Mr. Chase explained that the problem in attempting to determine Western's total revenues results primarily from the "cost study" lag which varies somewhat but it has been as long as a year and a half before a particular month toll revenues can be accurately determined. In Mr. Chase's opinion all toll settlements should be finally determined within three months after the close of any one month's business.

ACCOUNTING AND PRO FORMA ADJUSTMENTS

Mr. Stephen C. Jones offered testimony and exhibits regarding the financial operations of Western Carolina Telephone Company. Telephone plant in service was increased from the book figure to $25,253,367 after various adjustments primarily giving effect to new Marion Central Office equipment. The net operating income figure for the test period resulting from Mr. Jones' audit is $1,590,691 which was reduced to $1,564,650 by the various accounting and pro forma adjustments to put all items on an end of period (or later) basis including local service revenues, toll revenues, miscellaneous revenues, uncollectables, operating expenses (including a 7% wage increase effective June 5, 1972 but with no corresponding change in revenues to reflect productivity gains), other expenses, depreciation expense and taxes. Of the $1,564,650 figure the portion allocated to intrastate operations is $1,153,654 for test period net operating intrastate income.

Mr. Jones testified that under present rates, including the dividend from Westco, Western Carolina earned 6.35% on common equity during the test period, computed on combined operations and not on solely intrastate operations. The return on the fair value of the company's property allocated to intrastate operations for the test period under present rates is 5.34%.

Mr. Jones produced the requested rate increase figure of $788,173 as follows: by multiplying the intrastate net original cost plus allowances figure of $17,092,740 by the figure of 8.86% which is the weighted cost of money figure developed by Mr. Manz using a 12-1/2% cost of common equity; the result of that multiplication is a net operating income requirement of $1,514,417 or $360,763 more than his test period adjusted net operating income, after applying an attrition factor of .45881 to the net operating income, a gross revenue requirement of $786,302 results; the requested figure of $788,173 is the figure nearest to said gross revenue requirement resulting from rounding off unit prices to the nearest nickel over the large number of units represented by end of period customers.

Under the rates as requested the rate of return on the company's estimate of fair value would be 7.01% and the rate of return on common equity would be 11.81%.

Regarding the retirement of Marion Central Office equipment, Mr. Jones gave an opinion that if retired plant is to be used at a later date it should be classified to plant held for future use. Western Carolina agreed to ascertain the salvage value of that equipment and to submit a late exhibit reflecting that value.

Mr. William E. Carter, Jr., offered testimony and exhibits for the Commission Staff reflecting his audit of Western Carolina Telephone Company. His audit reflects annualized

year-end net operating income for return for intrastate operations under present rates totaling $1,208,458 which would produce a rate of return on net investment plus allowance for working capital of 6.81%. Net plant in service at December 31, 1971 allocated to intrastate operations amounted to $17,565,607 and the working capital allowance under present rates totaled $172,739.

Under proposed rates the working capital allowance would total $102,921 and the rate of return on said net investment plus allowance for working capital under proposed rates would be 8.89% and the increase in rates as filed would produce a rate of return of 14.31% on common equity including dividends income from Westco Telephone Company.

Mr. Carter testified that in his audit the intrastate toll revenues used were based upon a rate of return to Bell Telephone on the toll settlement contract of 8.5% which was Staff Witness Chase's Option No. 4 and that if the Commission should find that the rate of return is something less than 8.5% the amount of toll revenue shown on Carter's Schedule No. I would be decreased.

Regarding property retired from the Marion Central Office, Mr. Carter testified that if the salvage value of the equipment were placed into the material and supplies account there would be no effect on the rate base; however, if the salvage value were classified and property held for future use it could have an effect on the rate base because the corresponding credit would be to depreciation reserve which would decrease the rate base and increase the rate of return.

RATE OF RETURN

Mr. James M. Manz offered testimony and exhibits for Western Carolina regarding the cost of money to Western Carolina. In his opinion the present rate of return on common equity for the calendar year 1971 as normalized by Mr. Jones, of only 6.35% is inadequate in view of Western Carolina's current cost of money.

Mr. Manz based his opinion as to the fair rate of return on the cost of capital, the expectations of present investors, and comparable earnings. In his opinion, the overall cost of capital is the cost of debt and equity in an appropriate capital structure. The capital structure of Western Carolina at December 31, 1971 was 53.24% debt, 4.09% preferred stock and 42.67% common equity, which in his opinion is a reasonable capital structure and in his opinion a return of 12% to 13% is a reasonable rate of return for an investor in Western Carolina common stock to expect. He based this opinion upon his exhibits indicating a 13.02% five year average rate of return of 32 independent telephone companies which he picked for comparative purposes on the basis of a capitalization between $15,000,000 and $30,000,000 and a debt ratio of between 50% and 75%.

Based upon a return on common equity of 12% to 13%, the overall cost of capital would be 8.69% to 9.04% excluding interest free capital. The mean of those two figures would be 8.86% which would in his opinion be a fair rate of return.

Regarding current and past financing, Mr. Manz testified that the company sold $3,000,000 in bonds at 8.25% which is much better than the 9.5% and the 9.25% they are paying on the 1995 and 1996 series, and that during the years 1969, 1970 and 1971 the company issued long-term debt of $3,250,000, $2,500,000 and $2,300,000 respectively, and common equity of $1,600,000, $1,700,000, and $2,000,000, respectively. All of the common was purchased by Continental. Further, Continental has invested $5.5 million in Western in the past three years and intends to invest another $2,000,000 in the next 90 days.

Mr. Charles P. Jones offered testimony and exhibits for the Attorney General concerning cost of capital and fair rate of return. In his opinion the true opportunity cost of purchasing a stock or bond of a company is the expected return given up by not investing in one of the alternative investments of the same general risk class. Mr. Jones produced calculations based upon the opportunity cost concept as applied to the cost of equity capital, utilizing the proposition that the cost of capital is equal to the current dividend yield of common stock plus the rate of growth at which the investors expect dividends per share to increase, or the discounted cash flow (DCF) method.

In his opinion to arrive at a figure of future growth rate of dividends most knowledgable people in finance generally assume that investors are guided by the past to the extent that they expect to receive about the same rate of return in the future as they have received in the past provided that major changes in economic circumstances of the economy or the industry or the firm do not take place forcing a re-evaluation of expectations. In his opinion a good measure of investor expectations of future growth in dividends per share is past rates of growth in book value per share. He supported his testimony with a study of 36 comparable risk stocks from which he computed the book value growth rate and the dividend growth rates for 5, 10 and 15 year periods and obtained the arithmetical mean of the three different periods, finding the average dividend yields to be 2.74%, average book value growth rate to be 7.72% and average dividend growth rate to be 7.96%.

In his opinion the range for the cost of equity for Continental and therefore Western Carolina is 10.46% to 10.70% or a mean of 10.58%. Mr. Jones testified that in his opinion the cost of equity capital to Western Carolina should be in the lower part of the range. Including interim construction loans and deferred credits in addition to long-term debt, preferred stock and common equity Mr. Jones

computed an overall cost of capital of 7.803% which in his opinion is a fair rate of return.

Mr. Jones explained that although the debt equity ratio of a corporation has a bearing on the risk of its stock, he had not determined the debt equity ratio of the 36 companies contained in his comparative earnings exhibits because these 36 companies are risk-equivalent to the stock of Continental Telephone Corporation by virtue of having a beta coefficient of ±.05 of the beta coefficient of Continental and the equity ratio is included in determination of the beta coefficient.

REPLACEMENT COST

Mr. John Russell offered testimony and exhibits for Western Carolina to the effect that the replacement cost of Western Carolina's property in intrastate service as of the end of the test year is $28,966,698. In support of his testimony, Mr. Russell explained that he determined reproduction cost less depreciation by way of the trended original cost method which involves adjusting actual records of historical construction cost to current cost levels to the application of appropriate index numbers relating to price changes over a period of time. The vintage dollars to which the trend factors were applied were developed by the company on the basis of an inventory on the basis of an estimate by Western Carolina personnel. The trend factors are based upon material and labor indices weighted together using an estimated ratio.

Russell further testified that he made a general observation of construction and condition and observed depreciation based upon those factors and also average age of equipment, type of facility and other factors. Mr. Russell testified that he made no adjustment for the level of service provided, for any inefficiences existing in engineering and construction or for replacement by lower cost materials in place of original cost figures.

PLANNING AND ENGINEERING

Mr. Gene A. Clemmons testified for the Commission Staff regarding planning and engineering of Western Carolina plant as it related to investment in telephone plant; that he had studied the impact of Western Carolina's planning prior to 1967; that he had studied the company's station growth during the last four years and during the five year period 1967 and earlier; that the company's station growth rate during the past four year period had been substantially higher than during the previous five year period; that during this time of accelerated station growth the population of the Western Carolina service area had declined; that the high growth rate since 1967 resulted primarily from the Company serving a demand which already existed prior to that time; that the company had significantly increased the percentage of one party service

and reduced the percentage of party line service since the end of 1967; that the substantial amount of regrading resulted from upgrading of subscribers who lived in the area prior to 1967 but were not regraded until the Company was required to do so by the Commission subsequent to 1967; that the cost of meeting new service demands and regrade demands which existed prior to 1967 resulted in a higher plant investment than if the company had met these demands prior to 1967; that he made an estimate of the impact on the company's original cost under the condition that one-half of the investment made during the years 1968 to 1971 could and should have been made prior to 1967 to meet regrade and growth demands; that the estimated dollars required to do the job subsequent to 1967 resulted in the plant investment at the end of the test period being approximately $1,700,000 higher than it otherwise would have been; that this procedure did not make adjustment for any inefficiencies in the company's plant design or construction; that a substantial percentage of telephone plant had been retired since 1967 which has resulted in replacement at higher cost than would have been necessary had these retirements not been necessary; that the company's current planning and engineering relating to both inside and outside plant investment is reasonable; that the company has not been making use of aluminum shielded cable for buried installations which would result in a cable material cost reduction of approximately 15%; and that the company has only been making wide application of 26 and 24 gauge cable since 1971.

INTER-CORPORATE TRANSACTIONS

Mr. Warner T. Smith offered testimony and exhibits for Western Carolina illustrating the inter-corporate transactions between Superior Continental Corporation (which is another wholly-owned subsidiary of Continental Telephone Corporation), Western Carolina Telephone Company and Continental System Supply. The latter is the supply subsidiary supplying materials and service to the Continental system. During 1971 sales of Superior Continental Corporation totaled $109,865,915 of which 73% is attributable to materials manufactured by affiliates of Continental Telephone Corporation. Included in the cost of materials and supplies purchased by the operating companies by Continental System Supply is a mark-up which includes a profit objective of 5% of sales after taxes.

Mr. Donald R. Hoover testified for the Commission Staff that net operating income earned by Superior Continental Corporation on sales to Western Carolina was $495,000 producing a rate of return on investment ranging from 15.54% to 23.12%; that during the five year period 1967 to 1971 and that while a study of 13 other electronic and electric companies revealed a 5 year weighted average return on equity in the range of 12% while Superior's return on average common equity for the five year period averaged

25.14% with a high-low range of 30.82% in 1967 to 19.54% in 1971.

In his opinion if the Commission should find a 12% return on common equity to be fair and reasonable there remains as of December 31, 1971 in the plant accounts of Western Carolina approximately $169,000 of profits to the supply affiliate from goods and services provided the affiliated utilities in excess of average profits of a similarly type non-regulated companies. In addition to the above there were also profits of $31,088 earned on transactions between Western Carolina and other wholly owned affiliates of Continental Telephone Corporation.

RATE DESIGN

Mr. Edwin H. Guffey testified for Western Carolina regarding the proposed schedule of rates and charges filed by Western Carolina in this proceeding. He testified that Western Carolina used the total revenue requirement as developed by Mr. Jones as a starting point for proposed rates and then spread the increases over schedules which covered the largest groups of customers in order to keep the particular rate increases low.

He proposes to increase zone charges and eliminate four-party mileage. Zone unit increases of 25¢ in Zone A up to 75¢ in Zone J are proposed. In proposing an increase in non-recurring charges Western Carolina proposes to increase installation charges from $10.00 to $12.50 and from $5.00 to $7.50. Four-party rural service is priced at 90% of the one-party rate for the same exchange. Western Carolina proposes to merge the Cooleemee exchange rates into the general body of Western Carolina exchange rates.

Mr. Vern W. Chase testified for the Commission Staff regarding Western Carolina's proposed rate design. He testified that in his opinion the zones which are currently one mile wide should be increased to two miles in width and that instead of increasing the zone charges they should be decreased. Mr. Chase testified that he concurs with the company's proposal to eliminate four-party mileage but that Western Carolina's proposal to charge more for four-party service outside the base rate area than for the same service within the base rate area is in his opinion discriminatory and is in effect a means of putting mileage charges back on for rural four-party customers.

SERVICE ADEQUACY

The Public witnesses testified in this docket regarding various facets of the company's rates and service including such specific service deficiencies as the failure rate on DDD calls, trouble report clearing time, excessive telephone troubles and excessive delays in completing service orders.

Mr. William P. Cash testified for the Commission Staff regarding the staff review of the quality of telephone service provided by Western Carolina. Mr. Cash offered into evidence various exhibits reflecting field investigations and analysis of data and reports provided by the company concerning the company's service and progress in complying with the Commission's Order of July 15, 1970 containing 22 ordering paragraphs requiring improvements in the telephone service. Mr. Cash testified with regard to his opinion of the company's progress in meeting the Commission's service requirements paragraph by paragraph. Mr. Cash concluded that the company has made substantial progress in overall operations since the Commission's Order, but the service "is not yet at a fully adequate level".

Based upon the record and such judicial notice as is indicated herein, the Commission makes the following

FINDINGS OF FACT

1. That Western Carolina is a duly franchised public utility providing telephone service to subscribers in twelve local exchanges, is a duly created and existing corporation authorized to do business in North Carolina and is properly before the Commission in this proceeding for a determination as to the justness and reasonableness of its proposed rates and charges as regulated by the Utilities Commission under Chapter 62 of the General Statutes of North Carolina.

2. That the total net increases in rates and charges proposed by Western Carolina would produce a total of $788,173 in additional gross annual revenue.

3. That the test period utilized by all parties and set by the Commission in this proceeding was the twelve months' period ending December 31, 1971.

4. That Western Carolina's total annualized test period operating revenues in North Carolina under the present rates are $4,230,155 including intrastate toll revenues of $1,515,717 consisting of $1,536,062 produced by Option No. 3 offered into evidence by Staff Witness Chase, less $20,345 which is the intrastate portion of an accounting adjustment reflecting the differences in adjustments to operating expenses made by Western Carolina and the accounting staff.

5. That Western Carolina's reasonable intrastate operating expenses for the test period are $1,528,913 and total operating revenue deductions are $3,038,326, leaving net operating income of $1,191,829.

6. That the ratio of net income under the present rates to the original cost net investment in the utility's property in intrastate service at original cost in the amount of $17,582,943, including a reasonable allowance for working capital, i.e., the present rate of return on said net investment, is 6.78%.

7. That after fixed charges on the allocated intrastate portion of bonds and short-term notes of $883,779 and after dividends on similarly allocated preferred stock of $43,775, there remains net income for common equity, under present rates, in the amount of $499,744; that the allocated common equity investment in Western Carolina at the end of the test period was $7,312,848 producing a rate of return on common equity under the present rates at the end of the test period of 6.83%.

ORIGINAL COST

8. That the original cost of Western Carolina's property used and useful in providing service to the public, within this State as of the end of the test year is $17,582,943 consisting of the utility's net investment in utility plant at original cost of $17,406,993 plus a reasonable working capital allowance of $175,950.

9. That Western Carolina's net investment in utility plant providing service to the public within this State, as of the end of the test year at original cost of $17,406,993 consists of gross investment in utility plant in said intrastate service at the end of the test period at an original cost of $19,225,443 less $1,818,450, which is that portion of said plant that has been consumed by previous use recovered by depreciation expenses.

10. That the reasonable working capital allowance for Western Carolina's test period operations of $175,950 consists of cash working capital allowance of $127,409, based on thirty (30) day's operation and maintenance expenses, material and supplies of $252,190, and average prepayments of $15,017, less average customer deposits of $12,526 and average tax accruals of $206,140.

REPLACEMENT COST

11. That the replacement cost of Western Carolina's property in intrastate service as of the end of the test year is $19,500,000. In making this finding the Commission has considered the various factors indicated in the following discussion.

Western Carolina's evidence of replacement cost was introduced by Company Witness John Russell of the American Appraisal Company, Inc. The Commission Staff presented related evidence regarding Western Carolina's planning, engineering, construction and quality of service. Mr. Russell testified that he determined the reproduction cost less depreciation of Western Carolina's property as of December 31, 1971 by way of the trended original cost method, which is based on actual records of historical construction costs adjusted to current cost levels through the application of appropriate index numbers relating to price changes over a period of time. The vintage dollars to

which the trend factors were applied were developed by the Company on the basis of an inventory of the property.

Although the term "replacement cost" envisions replacing the utility plant in accordance with modern design and techniques and with the most up-to-date changes in the state of the art of telephony, evidence of "reproduction cost" by way of trended original cost as presented by Witness Russell envisions, and is founded upon the premise of, a duplication of the plant as is, with inefficiencies and outmoded obsolete design included. Accordingly, the weight given to the "trended original cost" study offered in this proceeding as evidence of replacement cost is based upon a detailed evaluation of the methodology employed.

The reproduction cost appraisal by way of a trended original cost study presented by Witness Russell has several deficiencies which make it unacceptable as the full basis for determining replacement cost. The approach taken by this witness is to trend all undepreciated vintage dollars of plant investment surviving on Western Carolina's books at the end of the test period December 31, 1971. These surviving vintage dollars were determined on the basis of a plant inventory or, where historical records are not available, on the basis of an estimate by Western Carolina personnel of the date of placement of the plant, said estimate having been accepted by the witness.

Mr. Russell then trended the vintage dollars by applying material and labor indices which he selected. These indices were weighted together using an estimated ratio of labor, material and overhead. Mr. Russell stated that the relative weighing of labor and material is based on Western Carolina's experience generally and in some cases was supplemented by general industry information from his files. Consequently, his weighting, which is extremely important to the final trended result, is a composite of some Western Carolina experience, general experience in the industry and judgment applied by the witness. These indices were weighted together by using a ratio of labor and material that is assumed to apply over the entire life span of the surviving plant. Witness Russell then trended the undepreciated original cost vintage dollars using his developed trending indices.

Witness Russell testified that he made a general observation of the type of construction and overall condition of the plant facilities and that, in addition to these physical inspections of outside plant, he considered the average age of equipment, the type of facility, Western Carolina's plans for future construction and replacement, and his knowledge of telephone industry trends and practices. He further stated that his inspection in each exchange confirms that there was nothing unusual in the physical condition or construction standards from those normally encountered in the telephone industry; that he found equipment to be in service and well maintained; that

the Company's facilities are modern, well designed within industry standards; that the major portion has been constructed in recent years; that only a very few facilities contain any degree of obsolescence, which he reflected in the condition study.

In considering Mr. Russell's evidence of replacement cost, several significant deficiencies are noted: he does not make any allowance in his trending of original book cost for inefficiencies which existed in the engineering and construction of plant; his trending does not make allowance for existing plant deficiencies of inadequacies such as insufficient clearances which have required and will require substantial additional investment to correct; his trending makes no adjustment for the Western Carolina's construction of plant at an extremely high rate during period 1968-1971 in a "catch-up" program, when both labor and material costs were significantly higher than in previous years; rather, he compounds this high cost by trending; and he makes no adjustment for higher booked prices of plant such as copper shielded cable which could be replaced with lower cost aluminum shielded cable. Witness Russell's trended original cost methods and the results produced are not fully acceptable as the complete basis for determining replacement cost, and although Mr. Russell's study produces some indication of replacement cost, the net trended cost of Western Carolina's plant produced by such trending is an excessively high estimate of replacement cost for the reasons set out hereinabove.

FAIR VALUE

12. That the fair value of Western Carolina's property used and useful in providing service to the public within this State as of the end of the test year is $18,000,000. In making this ultimate finding the Commission has considered both its finding as to the original cost of Western Carolina's property, consisting of gross plant investment less that portion consumed by previous use recovered by depreciation, plus an allowance for working capital, and its finding as to replacement cost, as well as the following other evidentiary findings: (a) that the service of Western Carolina in North Carolina is inadequate and that such a finding of inadequacy bears directly on the fair value of the Company's property, (b) that Western Carolina's inadequate planning prior to 1968 and lack of adequate engineering and construction practices have resulted in higher current plant investment than would otherwise have been necessary, the Commission having weighed the impact of this poor planning on Western Carolina's investment and having considered such planning in determination of fair value of Western Carolina's property, (c) that Western Carolina has made substantial and accelerated retirement of plant since 1964 which has resulted in a substantial reduction in the depreciation reserve from approximately 24% in 1964 to approximately 9% at the end of the test period, December 31, 1971, (d) that

the necessity for making such accelerated retirements is a result of Western Carolina's earlier inadequate planning, engineering and construction programs, and of which the Commission takes judicial notice from annual reports on file, is in the range of 20% or higher and that the 7% reserve ratio of Western Carolina at the end of the test period is substantially lower than normal and reflects the retirement of abnormally large amounts of obsolete and deteriorated plant.

FAIR RATE OF RETURN

13. That assuming adequate service were being provided a rate of return on the fair value of Western Carolina's property in the range of 7.75%, equating to a rate of return of approximately 11% on the equity as adjusted for the increment by which fair value exceeds original cost, would be a fair rate of return on fair value and a fair rate of return on said adjusted equity; said rates of return would equate to a return of approximately 8% on net investment in property at original cost and approximately 11.75% Western Carolina's common equity based on test year operations and the present debt-equity capital structure.

14. That Western Carolina has made certain improvements in service pursuant to the Order of this Commission issued on July 15, 1970, in Docket No. P-58, Sub 61, finding the service to be "insufficient and inadequate" and requiring improvements to meet specific requirements and specific service levels; that overall level of service, however, has not yet been improved to a level which is adequate and efficient and reasonable, and falls short of the statutory requirement that it be adequate, efficient and reasonable.

The above finding is compelled by the evidence relating to the quality of telephone service presented in this proceeding by the Commission Staff, by 38 subscribers, and by Western Carolina. Numerous specific levels of service were measured and evaluated by Commission Staff Witness Cash as a result of his investigation. Witness Cash testified that although improvements had been made in several service areas, the level of service was not a fully adequate level. Service indices and technical measurements alone, however, are not the only evidence worthy of consideration in evaluating adequacy of service; consideration must be given to the degree of subscriber satisfaction with the service. An analysis of the subscriber complaints set forth in the record of this proceeding indicates that a number of the complaints were related to specific service deficiencies as found by Staff Witness Cash, such as failure rate on DDD calls, trouble report clearing time, excessive telephone troubles, excessive delays in completing service orders, incorrect billing and credit on toll calls, too many subscribers on party lines, and difficulties completing local calls. The ultimate finding of service inadequacy is amplified in the following evidentiary findings:

(a) That the areas in which there has been some improvement are as follows: (1) reduction in failure rates on intra and interoffice calls; (2) reduction in the backlog of held applications for new service and regrades; (3) reduction of party line service with more than four-parties per line; (4) availability of central office lines and terminals; (5) provision of equipment from a traffic standpoint; (6) clearing of subscriber trouble reports in the Eastern district; (7) directory assistance operator answer time, (8) reduction in reorders and trouble reports since 1970 as shown on the DDD service bureau report; (9) pay station availability facilities where adequate clearances were not provided.

(b) That continued improvement in the quality of service is essential, particularly in the following areas: (1) further reduction of central office call failures in certain offices; (2) reduction of excessively high failure rates on direct distance dialing from central offices in the Western district; (3) elimination of service in excess of four-party lines; (4) balancing of traffic and central office lines and provisions of adequate equipment from a traffic standpoint; (5) reduction of subscriber trouble reports per 100 stations to eight or less; (6) clearing 95% or more of the subscriber trouble reports within 24 hours; and (7) reduction of repeat trouble reports.

15. That because of Western Carolina's presently inadequate service, a rate of return of 7.10% on the fair value of its property is just and reasonable; that said 7.10% rate of return on fair value will equate to a rate of return of 8.50% on common equity as adjusted for the fair value increment and a 9.00% rate of return on test period common equity; that although the 8.50% rate of return on adjusted common equity is below the return on common equity which would be found reasonable for this utility equity investment if the service were adequate, the net operating income which will be produced by application of the schedule of rates necessary to produce the rate of return on fair value and the rates of return on common equity set out above will be sufficient to cover all test year fixed charges and also preferred dividends, and based on the present quality of service, such a rate of return is fair and a schedule of rates producing revenues essential to such a rate of return is just and reasonable, and telephone rates producing revenues for any higher rate of return on fair value or on common equity would be unjust and unreasonable at this time.

16. That the rate increases proposed in this docket in excess of those herein found necessary to produce additional local service revenues of $188,765 are unjust and unreasonable, as they would produce rates of return in excess of those herein found to be just and reasonable.

17. That the schedule of local monthly rates, general exchange tariff item rates, and other charges prescribed and set forth in Appendix "A" attached hereto which will produce

additional gross revenue of $188,765 from end of test period customers provides a just and reasonable method of obtaining the required additional gross revenue and thus establishes just and reasonable rates and any particular rate increase above those rates as set out therein would be unjust and unreasonable on the record herein.

18. That by Order of January 11, 1967, in Docket No. P-58, Sub 59, of which the Commission takes judicial notice, the Commission authorized Western Carolina Telephone Company to acquire the assets of the Cooleemee Telephone Company and granted Western Carolina a Certificate of Public Convenience and Necessity to furnish telephone service in the service area served by Cooleemee, with the provision that the Cooleemee properties would be operated as a separate division of Western Carolina, with separate books, records and operating statistics, and that Western Carolina would maintain Cooleemee local and general exchange tariffs and rates in said Cooleemee service area, with no change in rates.

19. That in the proceeding now before the Commission, Western Carolina was required to provide exhibits setting out the investment and operating revenues and expenses of the Cooleemee operations; Western Carolina has since 1967 operated the Cooleemee properties as ordered, with separate records and without any change in the local service rates; the exhibits reflect net operating income deficit of $701, indicating that Cooleemee operations are not supported by the present rates in that service area, but to the contrary are presently being supported by Western Carolina rate payers in general.

20. That the Cooleemee operations should at this time be merged with the other operations of Western Carolina and rates with exchanges of comparable size in a Western Carolina statewide rate schedule, i.e., in Group 1, with other exchanges having a calling scope of 0-4000 telephones, as said statewide rate schedule is established and set forth in Appendix "A" attached hereto.

PRICE COMMISSION

21. That the increases authorized herein are cost justified and do not reflect future inflationary expectations; each of the expenses found reasonable in this proceeding is an actual expense in effect at the time of the hearing and none are based on predictions of any future increases in inflation.

22. That the increases are the minimum required to assure continued, adequate and safe service and to provide the necessary expansion to meet future requirements. Western Carolina's construction and service improvement program requires substantial amounts of additional capital to be raised and without the increases approved herein it could

not compete in the capital market for funds necessary to an improvement program.

23. That the increases will achieve the minimum rate of return needed under the particular circumstances of this case to attract capital at reasonable costs and not to impair Western Carolina's credit. The record clearly establishes that a rate of return on test period common equity of at least 9.00% is essential under present economic conditions.

24. That the increases do not reflect labor costs in excess of those allowed by policies of the Price Commission.

25. That the increases take into account expected and obtainable productivity gains as determined under Price Commission policies by means of setting them off against contracted wage increases, in that the Order does not allow for any increases in wages after the hearings held herein and the future wage increases in the annual wage contract, but not allowed as expenses for the test period, will absorb anticipated productivity gains; the methods utilized by the Commission in this hearing of a firm test period, with no adjustment for future increases and expenses and adjusting only for known changes in expenses and revenues, has, in fact, measured the productivity gains which have been achieved by Western Carolina in the test period fixed in this proceeding.

26. That the procedures of the Utilities Commission herein provided a reasonable opportunity for participation by all interested persons or their representatives in this proceeding; the using and consuming public was represented by the Attorney General; due public notice was given of the hearing, and all parties who requested to be heard either as formal parties of record or through presentation of public statements were admitted to the proceeding.

Whereupon the Commission reaches the following

CONCLUSIONS

The level of telephone service now being provided by Western Carolina Telephone Company to subscribers in its service area falls short of the statutory requirement that service be adequate, efficient and reasonable, and it must be improved with respect to reliability and dependability of service to the subscribers. The Commission considered the level of service in Docket No. P-58, Sub 61, a Show Cause proceeding, and during the present case. The Commission had anticipated that Western Carolina Telephone Company would take aggressive and thorough action to provide a level of telephone service that was efficient and dependable to its customers. However, the weight of the evidence in this case indicates that the service has not reached such a level. The Commission concludes that specific service improvements required in the Commission's July 15, 1970, Order in Docket

No. P-58, Sub 61 must be effectuated, and the specific service levels provided therein should be met as specified and the service improvement plan should be expedited where possible.

The failure or inability of the Western Carolina Telephone Company to provide adequate, efficient and reasonable service at the present time is a material factor to be considered in establishing just and reasonable rates for utility to charge, and the subscribers to pay, for the service being provided. Accordingly, the Commission is entering this Order in the docket establishing rates which are lower than those rates which would have been approved and established if the service had been found to be adequate.

The Commission concludes that the rates established herein will generate additional revenues in an amount sufficient to produce net operating income which will cover test year fixed charges and all preferred dividends and that said net operating income will be reflected in rates of return on fair value and on common equity as adjusted for fair value increment which will be rates of return that are fair to the utility and to the public considering the service being provided, but which do not reflect any rate of return increment for sound management as would be included in rates requested by Western Carolina and the rates that would be approved in this Order if service were presently adequate.

The Commission concludes that the rate increases which are approved herein for the purpose of producing additional gross operating revenues of $188,765 should be allocated to rates and charges for local monthly telephone service, semi-public pay stations and PBX trunks, zone charges, non-published and non-listed numbers, service connections and move charges as follows: (a) Non-listed and non-published numbers, $5,484; (b) Service connection charges, $18,077; (c) PBX trunks, at 2X the B-1 rate, $13,596; (d) Semi-public pay stations, at 1.5X the B-1 rate, $4,569; and (e) Monthly local service increases, $168,356.52. Zone and mileage charges should be decreased $21,317.52, by the elimination of four-party mileage and reduction of one and two-party zone rates.

In considering accounting and pro forma adjustments, the Commission concludes that Western Carolina's adjustment for wage increases outside the test period should be excluded inasmuch as there is no evidence of record from which to find anticipated productivity gains and that the Commission Staff's utilization of Witness Chase's Option No. 4 should be disallowed, the Commission having substituted in lieu thereof his Option No. 3.

The following tables, based upon the Findings of Fact, illustrate the calculations for the $188,765 additional revenue found to be necessary, just and reasonable from the records in this proceeding:

WESTERN CAROLINA TELEPHONE COMPANY
STATEMENT OF RETURN
INTRASTATE OPERATIONS

	Present Rates	Increase Approved	After Increase
Operating Revenues			
Local service	$ 2,605,005	$188,765	$ 2,793,770
Toll service	1,515,717		1,515,717
Miscellaneous	122,725		122,725
Uncollectibles	(13,292)	(283)	(13,575)
Total operating revenues	4,230,155	188,482	4,418,637
Operating Revenue Deductions			
Operating expenses:			
Maintenance	582,102		582,102
Traffic	294,055		294,055
Commercial	277,433		277,433
General office	345,349		345,349
Other	29,974		29,974
Total operating expenses	1,528,913		1,528,913
Depreciation	928,698		928,698
Amortization	5,976		5,976
Taxes - other than income	457,022	11,309	468,331
Income taxes - state	11,689	10,630	22,319
Income taxes - Federal	106,028	79,940	185,968
Total operating revenue deductions	3,038,326	101,879	3,140,205
Net operating income	1,191,829	86,603	1,278,432
Investment in Plant in Service			
Telephone plant in service	19,225,443		19,225,443
Less: Reserve for depreciation	1,818,450		1,818,450
Net investment in plant in service	17,406,993		17,406,993
Allowance for Working Capital			
Materials and supplies	252,190		252,190
Cash	127,409		127,409
Average prepayments	15,017		15,017
Average customer deposits	(12,526)		(12,526)
Average tax accruals	(206,140)	(16,721)	(222,861)
Total allowances for working capital	175,950	(16,721)	159,229
Net investment in telephone plant in service plus allowance for working capital	17,582,943		17,566,222
Rate of return	6.78%		7.28%
Fair value rate base	18,000,000		18,000,000
Return	6.62%		7.10%

STATEMENT OF RETURN ON COMMON EQUITY
INTRASTATE OPERATIONS

	Present Rates	After Increase	Adjusted for Fair Value Increment
Net operating income for return	$1,191,829	$1,278,432	$1,278,432
Other income - net	136,678	136,678	136,678
Amount available for fixed charges	1,328,507	1,415,110	1,415,110
Fixed charges	883,779	883,779	883,779
Preferred dividends	43,775	43,775	43,775
Amount available for common equity from Western stockholders	400,953	487,556	487,556
Plus: Net common dividend available from subsidiary	98,791	170,601	170,601
Total amount available for common equity	499,744	658,157	658,157
Common equity	7,312,848	7,312,848	7,746,626
Return on common equity	6.83%	9.00%	8.50%

DIVIDENDS FROM SUBSIDIARY

Adjusted net income of Westco	$202,218	$312,764
Net income available for dividends at 70% pay out	141,553	218,935
Less preferred dividends	35,097	35,097
Net available for common dividends	106,456	183,838
Less: Applicable Federal income tax	7,665	13,237
Net common dividends available to parent	98,791	170,601

CAPITAL STRUCTURE

	Amount	Percent	Interest or Dividend Requirements
Long-term debt	$ 9,123,335	41.97	$670,805
Short-term debt	1,903,255	8.76	99,921
Advances from Continental Tele. Corp.	1,674,864	7.71	113,053
Total debt and advances	12,701,454	58.44	883,779
Preferred stock	700,398	3.22	43,775
Interest-free capital	1,021,009	4.70	
Common equity	7,312,848	33.64	
Total capitalization	$21,735,709	100.00	$927,554

The Commission concludes that Cooleemee operations are not supported by the present rates in that service area, but to the contrary are presently being supported by Western Carolina subscribers in general, and that the Cooleemee operations should at this time be merged with the other

operations of Western Carolina and rated with exchanges of comparable size in a statewide rate schedule as established in Appendix "A" attached hereto. Further, the Cooleemee subscribers who have previously paid a one-time charge of $10.00 for a telephone instrument in color should be entitled to retain that instrument or another of the same color as long as telephone service is retained, including on and off premise moves and moves to different addresses within the Cooleemee exchange without any additional recurring charge. Accordingly, the outstanding Order in Docket No. P-58, Sub 59 should be vacated consistent with this Order.

The Utilities Commission has adopted rules and regulations to recognize the criteria for price regulation under the National Economic Stabilization Act as a certificated regulatory Commission under the rules of the Federal Price Commission, 6 Code of Federal Regulations, §300.16a, and has published its rules and regulations pursuant thereto in Chapter 13 of the Utilities Commission's Rules and Regulations. The criteria and policies of the Price Commission, as adopted in said Chapter 13 of the Utilities Commission's Rules, have been considered by the Commission and in view of the relevant Findings of Fact hereinabove, the Commission concludes that the increases allowed herein are in compliance with the Economic Stabilization Act of 1970.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant Western Carolina Telephone Company be, and hereby is, authorized to increase the North Carolina local exchange monthly telephone service rates, general exchange tariff item rates and other charges to produce annual gross revenues not exceeding $4,418,637 by applying total increases in said rates and charges in the amount of $188,765 based upon stations and operations as of December 31, 1971, as in the schedule of rates and charges hereinafter set forth in Appendix "A".

2. That the schedule of local exchange telephone rates, general exchange tariff item rates, and other charges prescribed and set forth in Appendix "A" attached hereto be, and hereby is, established as the schedule of rates and charges to be effective on bills rendered in advance on the next regular billing date five days following the release of this Order, or after such time as said tariff revisions have been filed if such filing is not accomplished within said five days.

3. That Western Carolina Telephone Company shall file tariff revisions reflecting said increases, to be effective as of the dates prescribed above.

4. That Western Carolina Telephone Company be, and hereby is, directed that the one and two-party zone rates set out in Appendix "A" attached hereto shall not become

effective in the Franklin and Marion exchanges until the fourth quarter of 1973 in accordance with the zone conversion schedule previously filed, and the interim, one and two-party mileage as now authorized shall continue to be effective.

5. That the ordering provisions in the Commission's Order of January 11, 1967, in Docket No. P-58, Sub 59 relating to separate records, rates and tariffs are hereby vacated and cancelled, and Western Carolina be, and hereby is, directed to integrate its Cooleemee operations into its total operations; provided, however, that any subscriber of the Cooleemee exchange who has paid a one-time charge of $10.00 for a telephone instrument in color is entitled to retain that instrument or another of the same color as long as telephone service is retained, including on and off premise moves and moves to different addresses within the Cooleemee exchange without any additional recurring charge unless said charge be authorized by the Commission. It is further ordered that a copy of this Order be placed in the Commission's file in Docket No. P-58, Sub 59, and that the company file an appropriate tariff.

6. That Western Carolina Telephone Company be, and hereby is, directed to take aggressive action to complete, not later than December 31, 1973, the specific service improvements and provide the service levels required by the Commission's Order of July 15, 1970, in Docket No. P-58, Sub 61.

ISSUED BY ORDER OF THE COMMISSION.

This 21st day of November, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"

WESTERN CAROLINA TELEPHONE COMPANY
DOCKET NO. P-58, SUB 85
Exchange Rate Grouping
Main Stations & PBX Trunks in Local
Serving Area

STATEWIDE RATE SCHEDULE

Group & Calling Scope	Business 1-Pty.	Business 2-Pty.	Business 4-Pty.	Business Multi.	Residence 1-Pty.	Residence 2-Pty.	Residence 4-Pty.	Residence Multi.
1. 0- 4000	14.25	13.00	11.50	10.00	7.70	6.90	6.40	6.15
2. 4001- 8000	15.25	14.00	12.50	11.00	7.95	7.15	6.65	6.40
3. 8001-16000	16.25	15.00	13.50	12.00	8.20	7.40	6.90	6.65
4. 16001-32000	17.25	16.00	14.50	13.00	8.45	7.65	7.15	6.90
5. 32000-Up	18.25	17.00	15.50	14.00	8.70	7.90	7.40	7.15

Rates by Exchange

Exchange	Business 1-Pty.	Business 2-Pty.	Business 4-Pty.	Business Multi.	Residence 1-Pty.	Residence 2-Pty.	Residence 4-Pty.	Residence Multi.
Andrews	15.25	14.00	12.50	-	7.95	7.15	6.65	-
Bryson City	14.25	13.00	11.50	-	7.70	6.90	6.40	-
Cashiers	14.25	13.00	11.50	-	7.70	6.90	6.40	-
Cherokee	14.25	13.00	11.50	-	7.70	6.90	6.40	-
Cooleemee	14.25	13.00	11.50	-	7.70	6.90	6.40	-
Cullowhee	14.25	13.00	11.50	10.00	7.70	6.90	6.40	6.15
Franklin	14.25	13.00	11.50	10.00	7.70	6.90	6.40	6.15
Highlands	14.25	13.00	11.50	-	7.70	6.90	6.40	-
Marion	15.25	14.00	12.50	11.00	7.95	7.15	6.65	6.40
Old Fort	15.25	14.00	12.50	-	7.95	7.15	6.65	-
Sylva	14.25	13.00	11.50	-	7.70	6.90	6.40	-
Weaverville	18.25	17.00	15.50	-	8.70	7.90	7.40	-

Extra Exchange Zone and Mileage Charges

One and Two Party Zone Charges		Monthly Rate	
Zone	Mileage	1-Party	2-Party
1	0 - 1 1/2	.60	.30
2	1 1/2 - 3 1/2	2.20	1.10
3	3 1/2 - 5 1/2	3.80	1.90
4	5 1/2 - 7 1/2	5.40	2.70
5	7 1/2 - 9 1/2	7.00	3.50
6	Beyond 9 1/2	8.60	4.30

Four Party Mileage - 0 -

Number Services

Non-Published Number	1.00
Non-Listed Number	1.00

Private Branch Exchange Service

PBX Trunks - 2 times Business one party rate

Semi-Public Telephone Service

Guarantee Service
Basic Guarantee is 1.5 times Business one party rate

Partial Pay
Rate is 1.5 times Business one party rate

Service Connection Charges

Instrumentalities not in Place	
Main Stations or PBX Trunks, each	12.50
Extension Stations, PBX Stations, Extension Bell and Gongs	7.50
Instrumentalities in Place	
For Main Station Plus any Other Portion of Entire Service Utilized	7.50
PBX Stations or Extension Stations, each	7.50
Restoration of Service	7.50
Moves and Changes	7.50

DOCKET NO. P-58, SUB 85

WELLS, COMMISSIONER, CONCURRING IN PART AND DISSENTING IN PART: There are three basic issues in this rate case which have not been satisfactorily resolved: (1) Service; (2) Rates; and (3) Rate of Return. Some resolution may be found in this or other rate cases for issues (2) and (3) above; the issue of service seems inexpiable in a rate case. Western's service is inadequate and inefficient.

Western's rates are high. Western's rate of return is low. All of these matters go directly to the skill and prudence of management, and cannot be explained away by any excuses, circumstances, and/or problems that management could not have solved or could not promptly solve, given the skill and prudence to be expected of them.

Over and over and over again this Commission has struggled with the management of Western in an effort to achieve good telephone service at reasonable rates. While it would seem that perhaps we have not failed completely, it is clear that our efforts have hardly resulted in overwhelming success. Were I a Western subscriber, I expect I would be wondering if there is any justice in the telephone business.

I have voted for the rates in this Order with much misgiving and only because I seek to go the last mile with this Company before lowering the boom; as far as I am concerned, the message to the management of this Company - indeed to its ultimate management in the person of its owner, Continental Telephone Corporation - cannot be too blunt. The people of Western North Carolina - indeed, this Commonwealth itself - deserve far better than you have given; and unless you are willing and/or able to do the job and do it right, to the end that your subscribers may have "adequate, economical, and efficient" telephone service (see G.S. 62-2), then the job should be turned over to somebody else.

Hugh A. Wells, Commissioner

DOCKET NO. P-9, SUB 113

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application of United Telephone Company of the Carolinas, Inc., for Authority to Adjust Its Rates and Charges for Telephone Service in Its Service Area within North Carolina.) ORDER

BY THE COMMISSION: Upon consideration of the Judgment and Opinion issued by the North Carolina Court of Appeals certified on September 4, 1972, affirming in part and reversing in part, and no further appeals having been taken therefrom, the Commission recognizes and concludes that said Judgment and Opinion by reversing that portion of the Commission's Order requiring the installation of extended area calling service for the Goldston and Bonlee exchanges to the Siler City exchange and the filing of new tariffs upon the completion of such installation, requires that the company be relieved of the obligations imposed by Decretal Paragraph 9 relating to providing said EAS in Chatham County, and

IT IS, THEREFORE, ORDERED that United Telephone Company of the Carolinas, Inc., be, and hereby is, granted relief from said Decretal Paragraph 9, in accordance with said Judgment and Opinion of the North Carolina Court of Appeals.

ISSUED BY ORDER OF THE COMMISSION.

This 18th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-7, SUB 577

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Carolina Telephone and Telegraph	)	ORDER GRANTING
Company -- Application for Authority	)	AUTHORITY TO ISSUE
to Issue and Sell Securities	)	AND SELL SECURITIES

This cause comes before the Commission upon an Application of Carolina Telephone and Telegraph Company (Company), filed under date of November 15, 1972, through its Counsel, Herbert H. Taylor, Jr., Tarboro, North Carolina, wherein authority of the Commission is sought as follows:

To issue and sell additional shares of Common Stock of the par value of $20.00 at a price share equal to the book value computed on the month end book value preceding the date the actual sale takes place for an aggregate total of $10,000,000 to its parent, United Telecommunications, Inc., upon receipt of the purchase price therefor; and United Telecommunications, Inc. has agreed to purchase the same at said price.

FINDINGS OF FACT

1. The Company is a corporation duly organized and existing under the laws of the State of North Carolina, with its principal office located in Tarboro, North Carolina; is the owner and operator of telephone communications systems in forty (40) counties in the eastern part of North Carolina; is a public utility as defined in Article I of Chapter 62, General Statutes (G.S. 62-1 -- G.S. 62-4) of North Carolina; and is subject to the jurisdiction of the North Carolina Utilities Commission.

2. During the past ten years, the demand for telephone service has been steadily increasing. Telephones in service increased from 218,567 stations at September 30, 1962, to 515,830 at September 30, 1972. At September 30, 1972, there were 407 unfilled orders and applications for service over fourteen days old, mostly in rural areas. Currently, 1290

customers wish to have their service upgraded from party to individual lines or lines shared with fewer people.

3. The increased demand for service has been the direct cause of high level construction activities, which during the past 11 years has grossed some $322,640,000. It is estimated that the gross expenditure for the last three months of 1972 will approximate $16,342,000. The current estimate for plant additions during 1973 is $66,000,000.

4. At September 30, 1972, the amount of bank borrowings outstanding was $7,364,000 and at October 31, 1972, the amount was $11,364,000. It is expected that the construction requirements of the Company will necessitate additional bank borrowings for like purposes in the future.

5. The Company proposes to issue additional shares of common stock of the par value of $20.00 at a price per share equal to the book value computed on the month end book value preceding the date the actual sale takes place for an aggregate total of $10,000,000 to United Telecommunications, Inc. upon receipt of the purchase price therefor; and United Telecommunications, Inc. has agreed to purchase the same at said price.

6. The net proceeds derived from the sale of the common stock will be applied first to payment of amounts owing by the company on its short-term obligations, and the excess, if any, to be expended on its construction program.

7. The expense to be incurred in connection with the issuance and sale of the stock will be limited to the $25 filing fee paid the Commission.

CONCLUSIONS

From a review and study of the application, its supporting data and other information in the Commission's files, the Commission is of the opinion and so concludes that the transactions herein proposed are:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

The Commission, as indicated above, finds the requested financing herein sought to be reasonably necessary and appropriate but it also finds that the equity ratio trend in

Carolina's capital structure after giving effect to this proposed sale of common stock to be increasing. The common equity ratio will increase from 46.6% to 49.7%.

The capital structure ratios as of September 30, 1972, before and after giving effect to the financing approved in this order are:

	Before	After
Long-term debt	50.8%	50.3%
Short-term debt	2.6	
Common stockholder equity	46.6	49.7
Total capitalization	100.0%	100.0%

Debt capital being lower in cost than common stock and retained earnings, the Commission encourages and expects regulated utilities to utilize as much debt in their capital structure as possible consistent with sound financial planning and judgment.

IT IS, THEREFORE, ORDERED, That Carolina Telephone and Telegraph Company be, and it is hereby, authorized, empowered and permitted under the terms and conditions set forth in the application:

1. To issue and sell to its parent, United Telecommunications, Inc., $10,000,000 aggregate amount of common stock of the per share par value of $20.00 at a price per share not less than book value computed on the month end book value per share preceding the date the actual sale takes place;

2. To devote the proceeds to be derived from the issuance and sale of the securities described herein to the purposes set forth in the application; and

3. To file with this Commission, in duplicate, a verified report of actions taken and transactions consummated pursuant to the authority herein granted within a period of thirty (30) days following the completion of the transactions authorized herein.

ISSUED BY ORDER OF THE COMMISSION.

This the 4th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-19, SUB 141

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application of General Telephone Company of the Southeast for Consent to Merge General Telephone Company of Alabama into it and for Authority to Assume the Outstanding Securities of General Telephone Company of Alabama Pursuant to Plan of Merger	)	ORDER CONSENTING TO MERGER AND GRANTING AUTHORITY TO ASSUME SECURITIES

This cause comes before the Commission upon an Application of General Telephone Company of the Southeast (General) filed under date of February 21, 1972, through its General Counsel, Ward W. Wueste, Jr., and Newsom, Graham, Strayhorn, Hedrick and Murray, Durham, North Carolina, wherein approval of the North Carolina Utilities Commission is sought as follows:

1. Authorizing and approving the merger of General Telephone Company of Alabama into General Telephone Company of the Southeast;

2. Authorizing General Telephone Company of the Southeast to execute and deliver supplemental indentures to the Trust Indenture and Debenture Indenture of General Telephone Company of Alabama and the assumption of the outstanding indebtedness secured thereby.

General Telephone Company of the Southeast is a Virginia corporation duly qualified to transact business as a foreign corporation in the State of North Carolina, as well as in South Carolina, Georgia, Tennessee and West Virginia.

General Telephone Company of Alabama (Alabama) is an Alabama corporation doing business in the State of Alabama and is a wholly owned subsidiary of General, Alabama's common stock having been acquired by General after approval by this Commission of the issuance of such stock by General in Docket No. P-19, Sub 129. General proposes to merge Alabama into it, whereby Alabama will lose its identity as a separate entity and General will acquire all of the telephone facilities and properties of Alabama. The surviving corporation will be General, a Virginia corporation, and the common stock of Alabama now held by General will be cancelled.

It is further shown in the Application that Alabama has outstanding the following securities: First Mortgage Bonds consisting of a 5% series due 1981 in the amount of $1,695,000; a 6-1/2% series due 1982 in the amount of $1,000,000; and a 5% series due 1988 in the amount of $400,000. In addition, Alabama has outstanding 6% sinking fund debentures due 1973 in the amount of $74,000. General

proposes to assume these outstanding securities and to accomplish this, to issue supplemental indentures to the Trust Indenture and Debenture Indenture of Alabama. Under the terms of General's First Mortgage Bond Indenture, it will also close the indentures of Alabama and will issue no securities under Alabama's indentures in the future.

Alabama also has outstanding $13,510,500 of short-term loans from General Telephone & Electronics Corporation, an affiliate of both General and Alabama, which General proposes to assume.

The Application states further that there is common management of both General and Alabama, that operating efficiencies have already been obtained by the consolidation of many of the functions necessary to such operations, that consolidation of the two companies into one will facilitate the future financings and that the securities offered by the merged companies to prospective purchasers will be enhanced since the total assets and current earnings of the merged companies are more attractive than General's earnings alone and that this will benefit telephone subscribers of both General and Alabama.

From a review and study of the Application and Exhibits, attached to and made a part of said Application, as well as other information contained in the Commission's files, the Commission is of the opinion and finds as a fact that the proposed merger of General Telephone Company of Alabama into General Telephone Company of the Southeast and the assumption by General Telephone Company of the Southeast of the security issues and short-term debt of Alabama incident to the merger, under the terms and conditions set forth in the Application and the Exhibits attached thereto are:

(a) For a lawful object within the corporate purposes of the Petitioner;

(b) Compatible with the public interest;

(c) Necessary and appropriate for and consistent with the proper performance by Petitioner of its service to the public and will not impair its ability to perform that service; and

(d) Reasonably necessary and appropriate for such purposes.

IT IS THEREFORE ORDERED, That General Telephone Company of the Southeast be, and it is hereby authorized, empowered and permitted under the terms and conditions set forth in its Application and the Plan of Merger attached thereto as Exhibit A:

1. To acquire by merger General Telephone Company of Alabama, an affiliate, and a wholly-owned subsidiary of General Telephone Company of the Southeast;

2. To assume the outstanding securities of Alabama as follows: The First Mortgage Bonds consisting of a 5% series due 1981 in the amount of $1,695,000; a 6-1/2% series due 1982 in the amount of $1,000,000; a 5% series due 1988 in the amount of $400,000. The 6% sinking fund debentures are due 1973 in the amount of $74,000;

3. To assume short-term indebtedness due from Alabama to General Telephone & Electronics Corporation, an affiliate, in the amount of $13,510,500;

4. To execute and deliver to the Trustee of the Trust Indenture and Debenture Indenture of Alabama a supplemental indenture assuming the indebtedness outstanding under each of Alabama's indentures and closing the indentures so as to prohibit the issuance of securities under said Trust Indenture and Debenture Indenture of General Telephone Company of Alabama;

5. To file with this Commission, when available in final form, one copy of the supplemental indentures authorized to be executed;

6. To file with this Commission, in duplicate, a verified report of the actions taken, transactions consummated, and accounting journal entries effecting the merger and the assumption of securities pursuant to the authority herein granted within a period of thirty (30) days following the completion of the transactions authorized herein.

ISSUED BY ORDER OF THE COMMISSION.
This the 7th day of March, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. P-70, SUB 111

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Petition of North Carolina Telephone Company for Authority to Issue Voting Preferred Stock and Common Stock into which the Preferred Stock is Convertible and for Mid-Continent Telephone Corporation to Acquire North Carolina Securities and for Approval of a Management Contract by and between North Carolina Telephone Company and Mid-Continent Telephone Service Corporation	)	ORDER APPROVING ISSUANCE OF PREFERRED STOCK AND MANAGEMENT CONTRACT WITH MID-CONTINENT TELEPHONE SERVICE CORPORATION

HEARD IN: Union Room, Union County Public Library, Monroe North Carolina, on April 7, 1972; and

Hearing Room of the Commission, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on April 20, 1972

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

APPEARANCES:

For the Applicant:

B. Irvin Boyle
Boyle, Alexander & Hord
Attorneys at Law
623 Law Building
Charlotte, North Carolina 28202
For: North Carolina Telephone Company

Robert C. Hord, Jr.
Boyle, Alexander & Hord
Attorneys at Law
623 Law Building
Charlotte, North Carolina 28202
For: North Carolina Telephone Company

F. Kent Burns
Boyce, Mitchell, Burns & Smith
Attorneys at Law
Box 1406, Raleigh, North Carolina
For: Mid-Continent Telephone Corporation
Mid-Continent Telephone Service Corporation

For the North Carolina Department of Justice:

Robert Morgan
Attorney General
N.C. Department of Justice
P. O. Box 629, Raleigh, North Carolina

Jean A. Benoy
Deputy Attorney General
P. O. Box 629, Raleigh, North Carolina

Louis W. Payne, Jr.
Associate Attorney General
N.C. Department of Justice
P. O. Box 629, Raleigh, North Carolina 27602
For: The Using and Consuming Public

For the Commission Staff:

Edward B. Hipp
Commission Attorney
William E. Anderson
Assistant Commission Attorney

One West Morgan Street
Raleigh, North Carolina 27602

For the Southern Bell Telephone & Telegraph Company:

R. C. Howison
Joyner & Howison
Wachovia Bank Building
Raleigh, North Carolina 27602

BY THE COMMISSION: On March 28, 1972, North Carolina Telephone Company, Matthews, North Carolina, (hereinafter called N.C. Telephone), Mid-Continent Telephone Corporation, Hudson, Ohio, (hereinafter called MID-CONTINENT), and Mid-Continent Telephone Service Corporation, Hudson, Ohio, (hereinafter called MID-CONTINENT SERVICE CORP.), filed a joint Petition with the Utilities Commission for approval of the following transactions, stated in general terms:

1. N.C. Telephone to issue 5,040,450 shares of voting cumulative convertible preferred stock at par value of $1.00 per share, subject to pre-emptive rights of existing owners of common stock of N.C. Telephone.

2. Mid-Continent to purchase 3,600,000 shares of said preferred to the extent not purchased by pre-emptive rights of existing common stockholders.

3. If Mid-Continent acquires the 3,600,000 shares of said preferred, it would give Mid-Continent 51% voting control of N.C. Telephone, and approval is requested for change of control of N.C. Telephone from existing majority stockholders to Mid-Continent.

4. Approval of a Service Contract between N.C. Telephone and Mid-Continent Service Corp., to provide management services to N.C. Telephone by Mid-Continent Service Corp.

The Commission considered that the above Petition was affected by the public interest and set the Petition for public hearing in Monroe, North Carolina, on April 7, 1972. At the hearing in Monroe, the Petitioner presented testimony and evidence of Robert D. Bonnar, Vice President, Mid-Continent, Hudson, Ohio, who testified as to the details of the contract to acquire control of N.C. Telephone and the ability of Mid-Continent in the operation of thirty-five (35) telephone operating subsidiaries in eleven (11) states. Mid-Continent presently has four subsidiaries operating in North Carolina, to wit, Eastern Rowan Telephone Company, Mooresville Telephone Company, Thermal Belt Telephone Company and Mid-Carolina Telephone Company.

The Petitioners then offered the testimony and exhibits of Linn D. Garibaldi, President, N.C. Telephone, who testified as to the present financial condition of N.C. Telephone and the need for additional financing. N.C. Telephone now has

outstanding $6,280,000 of demand notes to banks and equipment suppliers. The testimony of Mr. Garibaldi is convincing evidence that N.C. Telephone has completely exhausted its financial resources and has no prospects of refinancing its overdue notes and cannot issue long-term bonds or common stock and cannot secure additional financing to continue the necessary construction program to meet the demands for service in its service area.

The Commission, by Order entered on April 19, 1972, took notice of a Motion made in Docket No. P-70, Sub 105, Application of N.C. Telephone for rate increase by the Attorney General, that this Docket be consolidated with the rate increase docket and that Southern Bell Telephone & Telegraph Company (hereinafter called SOUTHERN BELL), be brought into the proceeding to seek means of transferring the franchise service area to Southern Bell. The Order set a public hearing in this docket on April 20, 1972, on the Motion of the Attorney General made in Docket No. P-70, Sub 105, and made Southern Bell a party, to state its position on said Motion of the Attorney General.

At the hearing on said Motion on April 20, 1972, the parties appeared and stated their positions as follows:

1. Counsel for N.C. Telephone objected to further delay, based upon the serious financial condition confronting N.C. Telephone, and the long delays envisioned over any efforts to get Southern Bell service in the territory.

2. Southern Bell stated, through counsel, that it was uninterested and unwilling to acquire the assets or franchise of N.C. Telephone for the reason that Southern Bell capital was completely committed in its existing franchises and that it did not desire to acquire N.C. Telephone, would make no effort to acquire N.C. Telephone, and would resist any efforts to compel it to acquire N.C. Telephone.

3. Mid-Continent, through counsel, objected to the consolidation because of the delay and the concern over the position of creditors demanding their money on demand and overdue obligations of N.C. Telephone.

4. The Attorney General, through Staff counsel and in person, stated the concern of the Attorney General for the serious straits of N.C. Telephone and the service it was rendering, and renewed the Motion to bring Southern Bell in the territory, but reported from contacts with the United States Department of Justice that this would be a time consuming proposition, and renewed the concern of the Attorney General for the customers of N.C. Telephone.

Upon consideration of the evidence of record and the statements of position stated on the record by the parties hereto, the Commission makes the following

FINDINGS OF FACT

1. That N.C. Telephone is a public utility corporation organized and existing under and by virtue of the laws of the State of North Carolina, duly authorized to provide telephone service in its service area.

2. That the Petitioner, Mid-Continent, is a public utility holding company with telephone operating subsidiaries providing telephone utility service in 11 states, including four telephone operating subsidiaries providing telephone service in the State of North Carolina, and is organized and existing under and by virtue of the laws of the State of Ohio.

3. That subject to the approval of the Utilities Commission, N.C. Telephone has entered into an agreement with Mid-Continent to issue 5,040,450 shares of 8% voting convertible cumulative preferred stock having a par value of $1.00 per share, each share convertible into common stock at any time on the basis of one share of preferred stock for each .89 shares of common stock; that said issuance of said preferred stock is subject to pre-emptive rights of existing owners of common stock of N.C. Telephone; that Mid-Continent has entered into binding agreement to buy 3,600,000 shares of said preferred stock, subject to pre-emptive rights of existing common stockholders, for the purchase price of $3,600,000, at $1.00 par value per share.

4. That acquisition of 3,600,000 shares of voting preferred stock by Mid-Continent will transfer control of N.C. Telephone to Mid-Continent by transfer of control of 51% of the voting control of stockholders of Mid-Continent, both preferred and common, and would give Mid-Continent the right to elect a majority of the Board of Directors of N.C. Telephone.

5. That N.C. Telephone and Mid-Continent Service Corp. have entered into an agreement whereby the service company will provide qualified personnel available to perform all management functions of N.C. Telephone in the performance of telephone service at cost plus 10%.

6. That N.C. Telephone is in precarious financial condition with $6,280,000 of demand notes outstanding and a deficit cash position and with no prospects of securing extensions of said notes or of issuing long term debt or common stock, and can no longer continue to carry out the construction program necessary to improve service and to provide service in its service area; and without some merger, sale or other means of bringing in new capital, cannot provide adequate service in its service area.

7. That Southern Bell is unwilling to acquire N.C. Telephone and would resist any efforts to acquire N.C. Telephone, and extensive proceedings would be required to determine if Southern Bell could be compelled to acquire

N.C. Telephone, and the telephone service in the service area of N.C. Telephone would suffer damage during the extensive time required for such efforts, without a reasonable basis for predicting the outcome of such efforts.

8. That Mid-Continent has four operating subsidiaries in North Carolina beginning with the first subsidiary in 1964, and the Commission has not had any unusual or untoward service problems with said subsidiaries and adequate service has been provided at reasonable rates.

CONCLUSIONS OF LAW

1. The 1963 Public Utilities Act applies a statutory standard to any stock transfer which might result in a transfer of control of the franchise in North Carolina as follows:

"G.S. 62-111. Transfers of franchises; mergers, consolidations and combinations of public utilities. - (a) No franchise now existing or hereafter issued under the provisions of this chapter other than a franchise for motor carriers of passengers shall be sold, assigned, pledged or transferred, nor shall control thereof be changed through stock transfer or otherwise, or any rights thereunder leased, nor shall any merger or combination affecting any public utility be made through acquisition or control by stock purchase or otherwise, except after application to and written approval by the Commission, which approval shall be given if justified by the public convenience and necessity. Provided, that the above provisions shall not apply to regular trading in listed securities on recognized markets."

2. The Commission further concludes that due to the parent corporation relationship resulting from such transfer, Mid-Continent Telephone Corporation would become a public utility under the jurisdiction of the Commission within the definition of the 1963 Public Utilities Act as follows:

"G.S. 62-3. Definitions. - (23) (c) The term 'public utility' shall include all persons affiliated through stock ownership with a parent corporation or subsidiary corporation as defined in a public utility doing business in this State as parent corporation or subsidiary corporation as defined in G.S. 55-2 to such an extent that the Commission shall find that such affiliation has an effect on the rates or service of such public utility."

3. The present majority stockholders of N.C. Telephone have by their actions in entering into the agreement filed here committed themselves to give up control of N.C. Telephone to Mid-Continent, and have signified their inability to commit further equity investment through additional common stock to provide adequate service in N.C. Telephone's service area.

4. Mid-Continent has by the agreement filed here signified its willingness to acquire control of N.C. Telephone, including all obligations of the owner of control of a public utility franchise in North Carolina to provide adequate service at reasonable rates.

5. The Commission finds from its records that Mid-Continent has demonstrated a fitness and ability to provide adequate telephone service at reasonable rates in the four operating subsidiaries served by Mid-Continent in North Carolina, Mooresville Telephone, Thermal Belt Telephone, Eastern Rowan Telephone and Mid-Carolina Telephone Company.

6. The Commission has considered to the extent possible on this record the question of alternative means of bringing additional financial and management resources into the N.C. Telephone franchise area, including the Order requiring Southern Bell in this proceeding to state its position on the record as to the acquisition of N.C. Telephone. The record indicates that Southern Bell would resist any such effort and does not desire to acquire N.C. Telephone. The urgency of the matters considered herein effectively precludes the Commission from pursuing this approach at this time. The Commission concludes that the present Petition to bring Mid-Continent into the service area is the only feasible present alternative, and that said alternative does not foreclose other procedures if it should develop at any time that Mid-Continent, as the parent corporation, and N.C. Telephone, as the subsidiary, are not able to provide adequate service at reasonable rates under the laws of North Carolina in the service area of N.C. Telephone.

7. The Commission concludes that the best of the alternatives on this record and at this time is to approve the Petition here for sale of preferred voting stock to Mid-Continent and for the approval of the acquisition of control of N.C. Telephone by Mid-Continent, and for approval of the Service Contract with Mid-Continent Service Corp., so that the experience and resources and facilities of Mid-Continent can be brought into the N.C. Telephone franchise service area at the earliest possible time, in order to give Mid-Continent the opportunity to demonstrate its ability to provide adequate service at reasonable rates in the service area of N.C. Telephone, as the parent corporation owning voting control of N.C. Telephone.

8. Mid-Continent has testified that it is advertent to the service needs in the N.C. Telephone franchise area, having been present through the hearings in the present pending rate application, Docket No. P-70, Sub 105, and has confirmed its service goal to provide the same grade of service that the Commission requires.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Petition herein of N.C. Telephone for authorization to issue 5,040,450 shares of 8% voting convertible cumulative preferred stock having par value of $1.00 per share, convertible into common stock at any time on the basis of 1 share of preferred for each .89 shares of common stock, is hereby approved.

2. That the Petition of N.C. Telephone and Mid-Continent for Mid-Continent to purchase 3,600,000 shares of said preferred stock, subject to the pre-emptive rights of existing stockholders of N.C. Telephone, and to acquire control of N.C. Telephone and to become the parent company of N.C. Telephone is hereby approved.

3. That the Petition of N.C. Telephone to enter into Service Contract with Mid-Continent Service Corp., as set out in the Petition and in accordance with the Contract attached thereto, is hereby approved.

4. That N.C. Telephone shall report at the earliest practical moment the results of the issuance of said 5,040,450 shares of said preferred stock, including the amount of said preferred stock acquired by Mid-Continent under its agreement to acquire 3,600,000 shares if not acquired by existing stockholders of N.C. Telephone.

5. That upon acquisition of 3,600,000 shares of said preferred stock by Mid-Continent, said Mid-Continent will be in voting control of N.C. Telephone and will be the parent corporation of N.C. Telephone and will be the controlling stockholder of a telephone utility in North Carolina which has the obligation to provide adequate service in its franchise area at reasonable rates fixed under the North Carolina Public Utilities Act.

6. That if upon issuance of said 5,040,450 shares Mid-Continent does not acquire a majority voting control of N.C. Telephone, the Commission will consider Petitions of any party of interest or on its own motion the issuance of appropriate Orders and proceedings to determine the ability of N.C. Telephone to continue to provide adequate service in its service area, and to determine its fitness as a corporation or of the majority of the stockholders thereof to continue to own or control the franchise for telephone utility service in the franchise service area of N.C. Telephone.

7. That the oral Motion of the Attorney General to consolidate this proceeding with N.C. Telephone's rate case, Docket P-70, Sub 105, is hereby denied.

ISSUED BY ORDER OF THE COMMISSION.

DOCKET NO. W-300, SUB 2
DOCKET NO. W-300, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Beech Mountain Utility Company, P. O. Box 277, Banner Elk, North Carolina, for a Certificate of Public Convenience and Necessity to Provide Sewer Utility Service in the Beech Mountain Development, Avery and Watauga Counties, North Carolina, and in Linville Land Harbor Development, Avery County, North Carolina, and for Approval of Rates	)	ORDER GRANTING FRANCHISE AND APPROVING RATES

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on September 14, 1972, at 10:00 A.M.

BEFORE: Commissioners John W. McDevitt (Presiding), Marvin R. Wooten, and Miles H. Rhyne.

APPEARANCES:

For the Applicant:

Mr. Glen B. Hardymon
Kennedy, Covington, Lobdell and Hickman
Attorneys at Law
1200 North Carolina National Bank Bldg.
Charlotte, North Carolina

For the Intervenor:

Mr. A. A. Zollicoffer, Jr.
Zollicoffer & Zollicoffer
Attorneys at Law
215 North Garnett Street
Henderson, North Carolina

For the Commission Staff:

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

BY THE COMMISSION: These two proceedings are before the Commission pursuant to Applications by Beech Mountain Utility Company for a Certificate of Public Convenience and Necessity to provide sewer utility service in Beech Mountain Development, Avery and Watauga Counties, North Carolina, and in Linville Land Harbor Development, Avery County, North Carolina, and for approval of rates.

By Order of July 24, 1972, in Docket No. W-300, Sub 3, and by Order of July 12, 1972, in Docket No. W-300, Sub 2, the Commission scheduled the matters for public hearing, and

required that public notice be given, advising that anyone desiring to intervene or to protest the applications was requested to file their intervention or their protest with the Commission by the date specified in the Notice.

Letters were received from homeowners in both Developments protesting the proposed rates. A formal intervention was filed on behalf of Mr. Charles W. Blanks, Jr., and the Beech Mountain Homeowner's Association. By Order of July 28, 1972, the Commission allowed the intervention on behalf of Mr. Blanks and the Homeowner's Association.

On August 7, 1972, the Commission issued an Order rescheduling the public hearing to September 14, 1972. Public notice of the rescheduled hearing was given to each customer in the Developments by the Applicant.

The public hearing was held at the time and place specified in the Commission's Order of August 7, 1972. The Affidavit of Publication and Certificate of Service were duly filed indicating that the requisite public notice was given in The Watauga Democrat, and in the Avery Journal.

At the hearing the Applicant offered as witnesses Mr. James R. Hunter, III, Treasurer of the Applicant, and Mr. C. Edward Powell of the engineering firm of Davis and Martin, High Point, North Carolina. Mr. D. A. Bland, Chairman of a Committee of property owners in Linville Land Harbor, and Mr. Joseph Vale appeared as witnesses for the customers in the Developments. The Applicant offered an amendment to its application which proposed rates for sewer service in the amount of 50% of the charges for water service. Counsel for the intervenors stipulated that the amended rates would be acceptable to the Beech Mountain Homeowner's Association.

Mr. Hunter testified that the Applicant does not expect to realize a profit on the water and sewer service until approximately 8 years have elapsed under the proposed rates as amended; and that the sewer charges would apply to customers served by septic tanks which were installed and maintained by the Applicant. Mr. Powell testified that in his opinion the sewer system was presently utilized at approximately 60% of its capacity.

Mr. Bland testified that the amendment to the proposed sewer rates which specified sewer charges in the amount of 50% of the water charges was acceptable to the property owners. Mr. Joseph Vale testified that he was furnished sewer service by means of a septic tank and that he was willing to pay the proposed sewer charges for such service.

Based upon evidence contained in the records of this proceeding and in the verified applications, the Commission makes the following

FINDINGS OF FACT

1. The Applicant, Beech Mountain Utility Company, is a corporation duly organized under the laws of the State of North Carolina, and is authorized under its Articles of Incorporation to engage in the operation of public utilities, as defined in G.S. 62-3. The Applicant is a wholly owned subsidiary of Carolina Caribbean Corporation.

2. The Applicant proposes to furnish sewer utility service in Linville Land Harbor Development, Avery County, North Carolina, and in Beech Mountain Development, Avery and Watauga Counties, North Carolina, and has filed a Schedule of Rates for said service.

3. Linville Land Harbor Development is a recreation and camping development which will consist of a lake, golf course, and areas for approximately 3000 camp sites. The development is located on U.S. Highway 221, approximately 4 miles south of Linville, North Carolina. The Applicant is presently furnishing flat rate water service to its approximately 150 sewer customers in the development, and has been furnishing sewer service to said customers at no charge.

4. Beech Mountain Development is a residential and recreation development which will consist of an amusement park, ski slopes, and areas for approximately 9000 home sites. The development is located on Beech Mountain Parkway, approximately 3 miles north of Banner Elk, North Carolina. The Applicant is presently furnishing metered water service to its approximately 450 sewer customers in the development, and has been furnishing sewer service to said customers at no charge.

5. The Applicant is the owner of the sewer systems and the sites for the sewage treatment plants.

6. There is a reasonable prospect for growth in demand for the proposed sewer services in the developments, and such services are not now proposed for the developments by any other public utility, municipality, or membership association.

7. The sewer system plans are approved by the North Carolina Department of Water and Air Resources.

8. The Applicant holds a franchise to provide public water utility service in the developments, and it is presently furnishing water service to approximately 600 customers in the developments.

9. The Applicant's proposed rate schedule specifies penalties for late payment in the amount of 1 1/2% per month on unpaid balance.

10. The annual revenues for sewer service in Linville Land Harbor under the proposed flat rate as amended would be approximately $4500, based on 150 customers at an average bill of $2.50 per month.

11. The annual revenues for sewer service in Beech Mountain under the proposed metered rates as amended would be approximately $17,660, based on 450 customers at an average consumption of 5000 gallons per month for 5 months.

12. The Applicant provides maintenance and repair service to the sewer systems on a 24-hour per day, 7-day per week basis by means of its construction office being manned 24 hours per day. The Applicant has employed a qualified operator for its sewage treatment plant, and has a field supervisor whose sole duty is to oversee all construction and maintenance in the developments, including the utility systems. As the area becomes more fully developed, a field supervisor will be assigned to full time duties with the utility system.

Based on the foregoing Findings of Fact, the Commission reaches the following

CONCLUSIONS

There is a demand and need for sewer utility service in Linville Land Harbor Development and in Beech Mountain Development which can best be met by the Applicant.

The rates proposed for sewer service in Linville Land Harbor Development and in Beech Mountain Development are just and reasonable and are supported by the data submitted in the verified application and contained in the record of the public hearing.

The penalties for late payment proposed by the Applicant should be denied without prejudice pending final disposition of the Commission's proceedings concerning uniform billing practices in Docket No. M-100, Sub 39.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, Beech Mountain Utility Company, is hereby granted a Certificate of Public Convenience and Necessity to provide sewer utility service in Beech Mountain Development and in Linville Land Harbor Development, as described herein and more particularly as described in the applications made a part hereof by reference.

2. That this Order, shall in itself, constitute said Certificate of Public Convenience and Necessity.

3. That the Schedule of Rates attached hereto as Appendix "A" is hereby approved, and that said Schedule of

Rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

ISSUED BY ORDER OF THE COMMISSION.
This the 13th day of October, 1972.

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

APPENDIX "A"
DOCKET NO. W-300, SUB 2
DOCKET NO. W-300, SUB 3
Beech Mountain Utility Company
Beech Mountain Development, Avery & Watauga Counties
Linville Land Harbor Development, Avery County

SEWER RATE SCHEDULE

METERED RATES

50% of metered water rates (Beech Mountain)
50% of flat water rates (Linville Land Harbor)

CONNECTION CHARGES: $100

RECONNECTION CHARGES

If sewer service cut off by utility for good cause (NCUC Rule R10-16f): $15.00

BILLS PAST DUE: Twenty (20) days after date rendered

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-300, Sub 2, and Docket No. W-300, Sub 3, on October 13, 1972.

DOCKET NO. W-300, SUB 2
DOCKET NO. W-300, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Beech Mountain Utility Company, P. O. Box 277, Banner Elk, North Carolina, for a Certificate of Public Convenience and Necessity to Provide Sewer Utility Service in the Beech Mountain Development, Avery and Watauga Counties, North Carolina, and in Linville Land Harbor Development, Avery County, North Carolina, and for Approval of Rates	ORDER CORRECTING ERROR IN SEWER CHARGES FOR BEECH MOUNTAIN DEVELOPMENT

BY THE COMMISSION: This proceeding is before the Commission on its own motion to modify and correct its Order entered herein on October 13, 1972, granting franchise and

approving rates for sewer service in the above consolidated proceeding. The Commission's motion to modify and correct said Order is based upon a letter of counsel for the applicant Beech Mountain Utility Company filed October 18, 1972, setting forth contentions of the applicant that the Commission's Order of October 13, 1972, fixed the sewer rate approved for Beech Mountain Development at 50% of the metered water rate billed for each customer of said utility in Beech Mountain Development, whereas the Amended Application, the testimony of the applicant at the hearing and the stipulation of the parties at the hearing was that the rate of 50% of the water rate referred to at said hearing should apply only to the sewer charge in Linville Land Harbor Development, and that said sewer rate should be 75% of the metered water rate billed for each customer of said utility in the Beech Mountain Development.

The Commission has reviewed the Application, as amended by the written Amendment filed September 14, 1972, together with the testimony and stipulations at the hearing, and has concluded that the Order entered herein on October 13, 1972, erroneously provided for the sewer rate schedule to be 50% of metered water rates at Beech Mountain and 50% of flat water rates at Linville Land Harbor, whereas said Order should have provided for the sewer rate schedule to be 75% of the metered water rates at Beech Mountain Development and 50% of the flat rate water rates in Linville Land Harbor, and that said Order should be corrected to allow a sewer rate for Beech Mountain Development of 75% of the metered water rates, in conformity with the record in this proceeding.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Appendix "A" attached to the Order entered herein on October 13, 1972, fixing the sewer rate schedule for the applicant Beech Mountain Utility Company in Beech Mountain Development, Avery and Watauga Counties, and Linville Land Harbor Development, Avery County, is hereby amended by striking out the rate "50% of metered water rates (Beech Mountain)", and inserting in lieu thereof the following: "75% of metered water rates (Beech Mountain)".

2. That Amended Appendix "A" attached hereto is hereby approved and said schedule of rates is hereby deemed to be filed with the Commission pursuant to G. S. 62-138.

3. That in all other respects the Order entered herein on October 13, 1972, shall remain in full force and effect.

ISSUED BY ORDER OF THE COMMISSION.

This 31st day of October, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
(Amended 10/31/72)
DOCKET NO. W-300, SUB 2
DOCKET NO. W-300, SUB 3
Beech Mountain Utility Company
Beech Mountain Development, Avery & Watauga Counties
Linville Land Harbor Development, Avery County

SEWER RATE SCHEDULE

METERED RATES

75% of metered water rates (Beech Mountain)
50% of flat water rates (Linville Land Harbor)

CONNECTION CHARGES: $100.00

RECONNECTION CHARGES

If sewer service cut off by utility for good cause (NCUC Rule R10-16f): $15.00

BILLS PAST DUE: Twenty (20) days after date rendered.

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-300, Sub 2, and Docket No. W-300, Sub 3, on October 13, 1972, as amended October 31, 1972.

DOCKET NO. W-218, SUB 7

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Hydraulics, Limited, Guilford-Jamestown Road (P. O. Box 11327), Greensboro, North Carolina, for a Certificate of Public Convenience and Necessity to Provide Water Utility Service in Ashebrook Woods Subdivision, Randolph County, North Carolina, and for Approval of Rates	))))))	ORDER GRANTING FRANCHISE AND APPROVING RATES

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on May 2, 1972, at 2:00 p.m.

BEFORE: Commissioner John W. McDevitt, Presiding, Commissioner Marvin R. Wooten and Commissioner Hugh A. Wells

APPEARANCES:

For the Applicant:

Mr. Douglas Dettor
Dettor, Egerton & Fowler
Attorneys at Law
P. O. Box 2139, Greensboro, N. C. 27402

For the Commission Staff:

Mr. Maurice W. Horne
Assistant Commission Attorney
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: This proceeding was instituted by the filing on January 31, 1972 of Application with the Commission by Hydraulics, Limited, requesting issuance of Certificate of Public Convenience and Necessity to own and operate a water utility system in Ashebrook Woods Subdivision, Randolph County, North Carolina and for approval of rates.

By Order dated February 11, 1972 the Commission, being of the opinion that the Application affects the interest of the consuming public and that the public should have an opportunity to intervene or protest the Application, set the matter for hearing on March 1, 1972 and required the Applicant to publish Notice of Hearing attached to the Order.

On February 28, 1972 the Commission issued an Order rescheduling hearing and requiring public notice by the Applicant. The matter came on for hearing on May 2, 1972.

At the commencement of the hearing the Applicant was permitted to introduce all exhibits attached to the Application and counsel for the Commission Staff indicated that the Applicant had complied with the informational deficiencies specified in the Commission Order of February 11, 1972.

In addition to the Application and Exhibits, the Applicant presented the testimony of Robert Troy, President, with respect to the proposed area to be served, the public need for such service and regarding its investment and proposals for maintenance of the system. Mr. Troy stated that he is Vice-President of Bainbridge and Dance Well Drilling Contractors, Inc., which firm will provide continuing maintenance service for the water system.

Upon stipulation by the Applicant, with the concurrence of the Commission Staff, the proposed tariff provision relating to connecting charges was amended to read "$85.00 per water tap". This stipulation was entered to eliminate possible confusion with the amount stated in the proposed tariff

which will be paid by the developer pursuant to contract with the Applicant.

Based upon the verified Application, the exhibits attached thereto and the evidence adduced at the hearing the Commission made the following

FINDINGS OF FACT

1. The Applicant, Hydraulics, Limited, is a corporation duly organized under the laws of the State of North Carolina and is authorized under its Articles of Incorporation to engage in the operation of a public water utility system.

2. Applicant is furnishing water to Ashebrook Woods Subdivision, Randolph County, North Carolina, and has filed a schedule of rates for such service.

3. Ashebrook Woods Subdivision is a residential subdivision which will consist of 48 residential lots upon its ultimate completion and is located approximately 10 miles from the corporate limits of High Point, North Carolina.

4. Applicant is presently furnishing water service to five customers at a metered rate in accordance with its proposed tariff and the Applicant proposes to ultimately service 48 customers.

5. The Applicant's investment in its water system is approximately $21,025.

6. Well site and water system plans have been approved by the State Board of Health.

7. The Applicant is financially ready, willing and able to provide the water service it proposes on a continuing basis and has at its disposal the service of Bainbridge and Dance Well Drilling Contractors, Inc., for continuing maintenance service.

8. The public convenience and necessity requires, or will require, the water service proposed by the Applicant.

9. The schedule of rates attached hereto as Appendix A as modified by stipulation at the hearing regarding connection charges and further modified by a provision of 25 days for bills due is just and reasonable.

Based upon the foregoing Findings of Fact, the Commission now makes the following

CONCLUSIONS

The public convenience and necessity requires, or will require, the water utility service proposed by the Applicant and it is readily apparent from the record that the

Applicant has at its disposal the financial and manpower resources to provide continuing maintenance in the operation of the system.

The rate schedule attached hereto as Appendix A is just and reasonable and should be approved as modified.

IT IS, THEREFORE, ORDERED as follows:

1. That the Applicant, Hydraulics, Limited, is hereby granted a Certificate of Public Convenience and Necessity in order to provide water utility service in Ashebrook Woods Subdivision, as described herein and more particularly as described in the Application made a part hereof by reference.

2. That this Order in itself shall constitute the Certificate of Public Convenience and Necessity.

3. That the schedule of rates attached hereto as Appendix "A" is hereby approved, and that said schedule of rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138, and that said schedule of rates is hereby authorized to become effective on one (1) day's written notice to the customers.

ISSUED BY ORDER OF THE COMMISSION.

This the 9th day of May, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
DOCKET NO. W-218, SUB 7
Hydraulics, Limited
Ashebrook Woods Subdivision
RANDOLPH COUNTY, NORTH CAROLINA

WATER RATE SCHEDULE
Residential Service

RATE

$5.00 (minimum charge) for first 4,000 gallons or less
.75 per each additional 1,000 gallons

CONNECTION CHARGES: $85 per water tap

RECONNECTION CHARGES

N.C.U.C. Rule R7-20(f) - $4.00
N.C.U.C. Rule R7-20(g) - $2.00

BILLS DUE: Twenty-five days after date rendered

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-218, Sub 7.

DOCKET NO. W-201, SUB 8

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by W. E. Caviness, t/a Touch and Flow Water System, 118 Poplar Street, Jacksonville, North Carolina, for a Certificate of Public Convenience and Necessity to Provide Water Utility Service in Wrightsboro Subdivision, Hoke County, and in Colonial Heights Subdivision (Malibu Drive), Wake County, and for Approval of Rates.	ORDER DENYING APPLICATION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

HEARD IN: The Commission Hearing Room, Ruffin Building, One West Morgan Street, Raleigh, North Carolina, on May 5, 1971, and on January 28, 1972.

BEFORE: Chairman Harry T. Westcott, Presiding, and Commissioners John W. McDevitt, Marvin R. Wooten and Miles H. Rhyne on May 5, 1971; and

Chairman Harry T. Westcott, Presiding, and Commissioners Marvin R. Wooten, Miles H. Rhyne, and Hugh A. Wells, on January 28, 1972.

APPEARANCES:

For the Applicant:

F. Kent Burns, Esq.
Boyce, Mitchell, Burns & Smith
Attorneys at Law
P. O. Box 1406, Raleigh, North Carolina 27602

For the Commission Staff:

Maurice W. Horne, Esq.
William E. Anderson, Esq.
Assistant Commission Attorneys
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

BY THE COMMISSION: By Application filed with the North Carolina Utilities Commission on February 22, 1971, W. E. Caviness, t/a Touch and Flow Water System, 118 Poplar Street, Jacksonville, North Carolina, seeks a Certificate of Public Convenience and Necessity to provide public utility water service in the above-captioned subdivisions in Wake and Hoke Counties, North Carolina, and approval of rates to be charged therein. On June 19, 1970, the Commission had

issued an Order to Show Cause in Docket No. W-201, Sub 6, in the matter of failure of W. E. Caviness, t/a Touch and Flow Water System, to obtain a Certificate of Public Convenience and Necessity to operate said public water utilities.

By Order issued March 3, 1971, the Commission scheduled the matter for public hearing, required that the Applicant submit additional information pertaining to the Application and required that notice of the public hearing be given by the Applicant. The requisite public notice was not given and although the public hearing was held at the time and place designated by prior Order, the matter was continued upon Motion of Applicant's counsel.

When the matter came on for resumed hearing, the Applicant was represented by counsel and testified in support of the Application. The Commission Staff Attorney cross-examined the witness concerning the information submitted by the Applicant and the Applicant's water utility operations generally, and offered the testimony of Mr. David F. Creasy of the Commission Engineering Department as to his engineering study of the systems and customer complaints arising from the water service being provided.

Based upon the information contained in the verified Application in the files of the Commission in this docket and in Docket No. W-201, Subs 6, 7 and 9, of which this Commission takes judicial notice, and the evidence adduced at the public hearing, the Commission makes the following

FINDINGS OF FACT

1. That the Applicant, W. E. Caviness, t/a Touch and Flow Water System, is an individual engaged in the operation of public water and sewer utilities, and currently holds previously issued utility franchises for operation of public water utilities in Royal Acres and Colonial Heights (Meadowbrook Drive) Subdivisions located in Wake County, North Carolina, and for operation of a public water and sewer utility in Scotsdale Subdivision located in Cumberland County, North Carolina.

2. That Applicant was issued utility franchises for operation of public water utilities in Oak Haven Subdivision located in Wake County, North Carolina, and in Crown Point Subdivision located in Onslow County, North Carolina, and subsequently divested himself of the water utilities in Oak Haven and in Crown Point when so ordered by the Commission in Docket No. W-201, Sub 9.

3. That Wrightsboro Subdivision is a residential subdivision in Hoke County, North Carolina, off U. S. Highway 401 southwest of Fayetteville, North Carolina, in which there are only ten (10) residences, three of which are empty; the subdivision is at a standstill so far as future development; only a portion of two streets are paved; the Applicant estimates that he has approximately $6,000

invested in this subdivision because of having laid approximately 2,800 feet of 6-inch pipe when the subdivision was first opened in 1962; all seven customers are on a flat rate; the Applicant does not have adequate original cost and accumulated depreciation records to ascertain the exact investment; the Applicant is currently furnishing water to a trailer park consisting of four trailers in an area contiguous to Wrightsboro and is doing so at no charge.

4. That Colonial Heights Subdivision (Malibu Drive section) is a residential subdivision located off U. S. Highway 401 south of Raleigh, North Carolina, in which eighteen (18) customers are served, only eleven (11) of which are metered; the Applicant estimates that he has approximately $2,000 invested in this subdivision. The State Board of Health has approved the system plans for a maximum extension to twenty-four (24) customers; the Applicant has not sought Board of Health approval for system plans reflecting the extension of the system to serve other customers, but the water system has been extended to serve customers outside the original twenty-four (24) lots.

5. That the water operations conducted by the Applicant in Wrightsboro Subdivision and Colonial Heights Subdivision (Malibu Drive section) are of such a nature as to be public utility operations under the laws of the State of North Carolina.

6. That the Applicant filed water system maintenance contracts with Raeford Plumbing and Heating Company regarding maintenance of the water system in the Wrightsboro Subdivision and with Rawls Pump and Supply Company for maintenance of the water system in Colonial Heights Subdivision.

7. That the rates charged by the Applicant in these two subdivisions at the present time, and for which approval is sought here, are as follows:

METERED RATES (Residential Service)

Up to first 3,000 gallons per month - $4.50 minimum.
All over 3,000 gallons per month - .65 per 1,000 gallons.

FLAT RATES (Residential Service): $4.50 per month.

8. That no other public utility, municipality, or membership association currently proposes to provide water service in the Applicant's proposed service areas.

9. That the Applicant failed to give written notice of the hearing to his customers as was required by the Order setting hearing.

10. That the Applicant has failed to provide the affidavit from his accountant which was stipulated would be filed as a late exhibit.

11. That the Applicant failed to file financial and plant records data required by the Application form and by Order of December 21, 1971.

12. That the Applicant has not provided regular monthly water samples for bacteriological analysis by the State Board of Health in Wrightsboro and Colonial Heights (Malibu Drive) Subdivisions.

13. That the Applicant failed to file the report required by the Order of the Commission dated October 7, 1971, in Docket No. W-201, Sub 7, regarding erroneous billing in Royal Acres Subdivision, Wake County, North Carolina.

Whereupon, the Commission reaches the following

CONCLUSIONS

The Applicant is providing public utility water service as such is defined in Chapter 62 of the General Statutes of North Carolina, and is subject to the laws of the State of North Carolina and the orders, rules, and regulations of this Commission and of the State Board of Health. The Applicant here seeks a Certificate of Convenience and Necessity, that is, a franchise to operate a monopoly public utility water service with the right to exclude all other potential water suppliers from the proposed service areas.

For the Commission to conclude that the public convenience will be served the Applicant must establish that he is fit, willing, and able to provide the proposed service in an adequate, sufficient, and reasonable manner. A water utility which fails to take regular monthly water samples and otherwise conducts the operations as they are described in Findings of Fact 9 through 13 can hardly be said to be providing adequate, efficient, and reasonable service. On the one hand, it is readily apparent that the public in these subdivisions requires running water, but on the other hand, the record does not establish that the public convenience and necessity requires that this Applicant have the exclusive franchise to provide such service.

Accordingly, we conclude that the Application for a Certificate of Public Convenience and Necessity must be denied, subject to leave to operate until successor service can be provided. The effect of this Order is to deny exclusive franchised status to this Applicant. Any other person or association thus has the right to seek a Certificate to provide public utility water service in the two subdivisions in question.

The rates as set out in Finding of Fact No. 7 hereinabove have been established as just and reasonable for the

Applicant's other water utility operations, and are similar to those charged by other utilities comparable to the Applicant in size and type of operation; they are, therefore, considered as just and reasonable and are accepted for filing as the rates to be charged by the Applicant in Wrightsboro and Colonial Heights (Malibu Drive) Subdivisions.

IT IS, THEREFORE, ORDERED:

1. That the Application for a Certificate of Public Convenience and Necessity be, and hereby is, denied, subject to leave to operate until successor service can be provided.

2. That the Applicant is, notwithstanding said denial of an exclusive franchise status, recognized to be providing public utility service as defined by law, and is hereby directed that such operations must be conducted in accordance with the laws of the State of North Carolina and the orders, rules, and regulations of the North Carolina State Board of Health.

3. That the Applicant be, and hereby is, specifically directed to take regular monthly water samples for testing by the State Board of Health.

4. That the schedule of rates attached hereto as "Appendix A" be, and hereby is, accepted for filing with the Commission pursuant to G. S. 62-138.

5. That any person, firm, or association not previously a party to this action may file an application for a Certificate of Public Convenience and Necessity to provide public utility water service in the two subdivisions in question.

6. That a copy of this Order be served upon each resident of Wrightsboro Subdivision, Hoke County, and the Malibu Drive Section of Colonial Heights Subdivision, Wake County, North Carolina, and other known property owners or developers.

ISSUED BY ORDER OF THE COMMISSION.

This the 15th day of September, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
W. E. CAVINESS, t/a TOUCH AND FLOW WATER SYSTEM
Colonial Heights (Malibu Drive) Subdivision
Wrightsboro Subdivision

WATER RATE SCHEDULE

METERED RATES (RESIDENTIAL SERVICE)

Up to first 3,000 gallons per month - $4.50 minimum.
All over 3,000 gallons per month - $ .65 per 1,000 gallons.

FLAT RATES (RESIDENTIAL SERVICE): $4.50 per month.

CONNECTION CHARGES: $10.00

RECONNECTION CHARGES

If water service cut off by utility for good cause [N.C.U.C. Rule R7-20(f)] $4.00
If water service discontinued at customers' request [N.C.U.C. Rule R7-20(g)] $2.00

BILLS DUE: Twenty days after date rendered.

Accepted for informational filing in accordance with the Order of the North Carolina Utilities Commission in Docket No. W-201, Sub 8.

DOCKET NO. W-201, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Failure of W. E. Caviness, t/a Touch and Flow Water Systems, 118 Poplar Street, Jacksonville, North Carolina, to Comply with Commission Orders and Rules and Regulations and to Provide Adequate Water Utility Service in Oak Haven Subdivision, Wake County, North Carolina, and Crown Point Subdivision, Onslow County, North Carolina) ORDER REVOKING FRANCHISES

HEARD IN: The Commission Hearing Room, Ruffin Building, Raleigh, North Carolina, on November 1, 22 and 29, 1971; and

The Jacksonville City Hall Auditorium, Jacksonville, North Carolina, on November 19, 1971

BEFORE: Chairman Harry T. Westcott, Presiding, Commissioners John W. McDevitt, Marvin R. Wooten, Miles H. Rhyne, and Hugh A. Wells; and

Hearing Commissioner Hugh A. Wells at Jacksonville, North Carolina hearing

APPEARANCES:

For the Respondent:

Vaughan S. Winborne
Attorney at Law
1108 Capital Club Building
Raleigh, North Carolina 27601

For the Intervenors:

Alexander Biggs
Attorney at Law
225 S. Franklin Street
Rocky Mount, North Carolina 27801
Appearing for: Residents of Oak Haven

For the Commission Staff:

Maurice W. Horne
Assistant Commission Attorney
Ruffin Building
Raleigh, North Carolina 27602

BY THE COMMISSION: On October 12, 1971, the Commission issued a Show Cause Order making W. E. Caviness, t/a Touch and Flow Water Systems, Respondent and directing said Respondent to appear before the Commission to show cause (1) why the rates authorized for water utility service in Oak Haven and Crown Point Subdivisions should not be reduced consistent with the premises of that Order until such time as the Commission determined the service afforded in Oak Haven and Crown Point Subdivisions to be adequate and efficient, and further (2) why the franchises issued with respect to water service in Oak Haven and Crown Point Subdivisions should not be revoked for failure of the Respondent to provide adequate and efficient service and to comply with the Commission Orders and Rules and Regulations specified with particularity in that Order, and further (3) why the Commission should not apply to the Superior Court of Wake County to impose a penalty of up to $1,000 per day for each day the Respondent fails to comply with Commission Orders and its Rules and Regulations under G. S. 62-310 or seek imposition of other statutory penalties.

The Commission's Order issued October 12, 1971, makes specific reference to prior Order of the Commission dated July 21, 1971, requiring improvements with respect to the water utility service of Respondent Caviness in Oak Haven Subdivision. The Commission, pursuant to decretal paragraph 6 of that Order, took judicial notice of its records in Docket No. W-201, Sub 6 and W-201, Subs 1 and 4. Hearings were held on November 19, 1971, in Jacksonville, North Carolina, and on November 1, November 22 and November 29,

1971, in Raleigh, North Carolina. With respect to service by the Respondent in Oak Haven and Crown Point Subdivisions, the Commission Engineering Staff's report filed on October 12, 1971, advised the Commission that Respondent Caviness had not undertaken sufficient steps to comply with the Commission's Order, had violated certain of the Commission's Rules and Regulations, and had been and continued to provide inadequate and inefficient service in Oak Haven Subdivision. The Staff further advised the Commission that the Respondent had not provided and continued to fail to provide adequate, efficient and reasonable service and in numerous instances violated the Commission's Rules and Regulations with respect to his water utility operations in Crown Point Subdivision.

The Commission's records indicate that W. E. Caviness, t/a Touch and Flow Water Systems, made application for and was granted Certificates of Public Convenience and Necessity to provide water service in Crown Point Subdivision, Onslow County, North Carolina, on February 29, 1968, and Oak Haven Subdivision, Wake County, North Carolina, on October 27, 1969. Respondent Caviness also has franchises for the operation of public water utilities in Scotsdale Subdivision located in Cumberland County, and Colonial Heights (Meadowbrook Drive), and Royal Acres Subdivisions, located in Wake County, North Carolina, and has applied for franchises in Wrightsboro Subdivision located in Hoke County and Colonial Heights (Malibu Drive), Wake County, which said subdivisions are not directly involved in these show cause proceedings.

With respect to water service by Respondent Caviness in the Oak Haven and Crown Point Subdivisions, respectively, the Commission records indicate the following:

OAK HAVEN SUBDIVISION

On June 19, 1970, the Commission issued a Show Cause Order requiring Respondent Caviness to show cause why his Certificate issued in Oak Haven Subdivision should not be cancelled for his failure to provide adequate water service. (This Order also involved Respondent Caviness' failure to obtain Certificates for his operation in Colonial Heights (Malibu Drive) and Royal Acres Subdivisions, located in Wake County, and Wrightsboro Subdivision in Hoke County.) The Show Cause Order recited that it was based upon complaints from residents in Oak Haven which had been received by the Commission Staff since March, 1970, concerning lack of water and low water pressure in Oak Hill Subdivision. A hearing was held pursuant to that Order on June 23, 1970, at which residents of Oak Haven testified.

On July 7, 1970, the Commission issued further Show Cause Order resuming hearing to receive further evidence of the adequacy of water service provided by Respondent Caviness in Oak Haven Subdivision, including his efforts to improve said system subsequent to adjournment of the hearing on June 23, 1970. The Order further required the Respondent, in order

to assure the Commission of his ability to provide maintenance and to answer complaints from Oak Haven Subdivision, to file with the Commission at the reconvened hearing scheduled for July 9, 1970, a proper bond or undertaking in an amount to be determined at the hearing, and further to file a written agreement with any agents which the Respondent had delegated provision of maintenance service as referred to in his testimony on June 23, 1970.

Hearing was held on July 9, 1970, pursuant to that Order. The Order required Respondent Caviness to show cause why the Commission should not seek a penalty of up to $1,000 a day with respect to the systems he was operating without a Certificate, and further to show cause why his Certificate to serve Oak Haven Subdivision should not be cancelled, and the operating authority therein terminated for failure to provide adequate water service.

On September 25, 1970, the Commission entered an Order dismissing the show cause proceedings pertaining to Oak Haven and requiring Respondent Caviness to install on the Oak Haven water system a ground storage tank having a storage capacity of not less than 20,000 gallons, with a transfer pump of suitable capacity, and further required that such storage tank and pump should be placed into operation within 30 days from the date of that Order. The Order further required that the Respondent file with the Commission not later than October 5, 1970, a copy of a written contract with Hasty Pump Sales and Service or any other reliable service firm in the Wake County area to provide maintenance service on a 24-hour per day, 7 days per week basis, with said contract clearly indicating that such firm would provide any maintenance service needed with respect to the water system in the Oak Haven Subdivision. The Order further required Respondent to file no later than October 5, 1970, a copy of a letter of guarantee in which Oak Haven, Inc. or John O'D Williams, individually, would pay upon presentation of a 30-day past due bill to Hasty Pump Sales and Service or whatever service firm had a contractual arrangement with the Respondent any amounts incurred with respect to maintenance and service performed in regard to the Oak Haven Subdivision not to exceed $300. The Order dismissing the show cause proceeding was based upon the Commission's stated opinion in said Order that the requirements of that Order, when completed, would insure that adequate water service would be provided in Oak Haven.

On April 27, 1971, the Commission issued a Show Cause Order directing Respondent Caviness to appear before the Commission to show cause why a penalty of up to $1,000 per day should not be invoked for each day he was in violation of the North Carolina Public Utilities Law; namely, his failure to comply with the Commission's Order of September 25, 1970, and failure to provide adequate water utility service in Oak Haven Subdivision.

Hearing was held on May 5, 1971. Immediately prior to that hearing, the Commission received a letter on May 3, 1971, indicating that Oak Haven, Inc. had on April 30, 1971, assumed ownership and management of the water system in Oak Haven Subdivision. The Commission's Order of April 27, 1971, indicated that the Commission Staff had by letter dated November 5, 1970, corresponded with the Respondent concerning the requirements of the September 25, 1970 Order, and further indicated that the Commission on or about April 16, 1971, had received further complaints of lack of water and inadequate water pressure from Oak Haven residents.

On May 20, 1971, the Commission entered a Show Cause Order setting hearing, establishing interim responsibilities for service and requiring immediate improvements. The Order recited that Mr. John O'D Williams had testified that a transfer of the water system's ownership had taken place on April 30, 1971. The Commission concluded that the unreconciled disputes were such that the matter could not be resolved in its entirety without further hearing. The Order made Respondents John O'D Williams, William A. Jenkins and Oak Haven, Inc., and ordered said Respondents to undertake such steps which may be necessary to provide frequent and timely operation of the transfer pump until such time as a proper automatic switch was installed and to undertake such steps as may be necessary to prevent persons other than those Respondents from tampering with the system components. Hearing was held pursuant to that Order on June 21, 1971.

On July 21, 1971, the Commission issued an Order requiring improvements in water service. The Commission concluded that the water system in Oak Haven Subdivision was capable of furnishing adequate and efficient water service to the residents of that Subdivision if certain modifications were required. The Commission further concluded that the difficulties encountered in the operation of said water system had been principally operational in nature and had resulted from improper maintenance practices and improper installation of certain items of equipment. Respondent Caviness was ordered to make certain modifications to the water system in Oak Haven as set forth with particularity in that Order. The Order further required Respondent Caviness to obtain and maintain on a written contractual basis the services of a qualified service representative, acceptable to the Commission, in order to provide continuing maintenance service on an adequate basis. Along with such contract, Respondent was required to submit the qualifications of the representative in writing to the Commission. Such contract and written qualifications of the service representative were required to be filed with the Commission no later than fifteen (15) days from July 21, 1971.

CROWN POINT SUBDIVISION

On February 14, 1968, a hearing was held in Docket No. W-201, Sub 1 on the application of W. E. Caviness, t/a

Touch and Flow Water Systems, for a Certificate of Public Convenience and Necessity to provide water utility service in Crown Point Subdivision. At that hearing, Mr. Ray Nery, Chief, Gas & Water Engineering Division, recommended that a second well be installed with respect to the system. Mr. Caviness testified that he had anticipated installing the second well after 50 homes were constructed. By Order issued February 29, 1968, the Commission found that Well No. 2 should be installed and connected in the system to insure reliability of service.

On July 3, 1969, the Crown Point Civic League filed a formal complaint against W. E. Caviness alleging that the water being supplied to the residents tasted poor and had a yellowish color and terrible odor. Complaint was served upon Mr. Caviness by Order of the Commission dated July 17, 1969. Mr. Caviness answered the Complaint on July 28, 1969, alleging that he had been working with the local Health Department and two water treating companies to improve the quality of the water and would continue his efforts until the problem was solved. Subsequently, the complainants advised the Commission that the answer was not acceptable and requested a public hearing.

On September 30, 1969, the hearing was held in Jacksonville, North Carolina, at which numerous witnesses testified who were residents of the Subdivision, including representatives of the State Board of Health and the Commission Staff.

On October 10, 1969, Mr. Caviness advised improvements had been completed and that the water tank had been sandblasted and painted with epoxy material. The North Carolina State Board of Health subsequently confirmed completion of the water tank and reported that the water samples indicated that the water met the United States Public Health Service Drinking Water Standards - 1962 which were adopted by the Commission.

On January 16, 1970, the Hearing Commissioner sent a letter to each of the residents in Crown Point requesting that the residents advise the Commission if the complaints had not been satisfied. Inasmuch as the Commission received no replies to said letter, the Commission concluded that the complaint of the Crown Point Civic League be dismissed and the complaint was dismissed pursuant to the Commission's Order of March 12, 1970.

On June 18, 1971, the Commission's Engineering Staff filed memorandum with the Commission regarding a complaint of Mr. Bechard, a resident of Crown Point, who had telephoned the Commission Staff stating that the residents of Crown Point Subdivision did not have water from approximately 11:00 A.M. until 12:00 P.M. daily and that such condition had existed for approximately 2 weeks.

On June 28, 1971, Mr. David F. Creasy, Utilities Engineer, wrote to W. E. Caviness setting forth certain recommendations for necessary improvements and referring to an on-site investigation made my Messrs. Creasy and Griffin, accompanied by Mr. Caviness on June 24, 1971.

On September 3, 1971, the Commission Staff made a further on-site inspection of the Crown Point Subdivision water system and filed results of the investigations in regard thereto on October 12, 1971. The Staff's investigation revealed frequent water outages for 1 to 4 days at a time; frequent periods of low pressure between outages; lack of adequate chlorination which resulted in a sulfide taste and odor in the water; improperly sized pump in the well which burns out frequently; lack of response by the Respondent to requests for assistance by the customers; inability to locate the Respondent within a reasonable period of time in case of emergency interruptions of water service and no seal or cover on the well.

On October 12, 1971, the Commission issued the Show Cause Order in docket No. W-201, Sub 9, involving both the Oak Haven and Crown Point Subdivisions.

The records of the Commission as they pertain to the Oak Haven and Crown Point Subdivisions indicate, in part, as follows:

NOVEMBER 1, 1971 HEARING:

This matter came on for hearing on November 1, 1971, pursuant to the show cause Order issued by the Commission on October 12, 1971.

At the inception of the hearing, Respondent Caviness stipulated that one Commissioner could hold a hearing in Jacksonville and the record transcribed and made available to the remainder of the Commission so that the other Commissioners could participate in the decision on the basis of the evidence in that record.

Mr. David Creasy, Commission Utilities Engineer, testified that he has been employed by the Commission since December 1969, and has responsibilities consisting of making investigations and recommendations in matters before the Commission relating to engineering and service of public water and sewer utilities, and has further administrative responsibilities consisting of accumulating data, evaluating information, preparing reports and presenting testimony in matters before the Commission with respect to public water and sewer utilities.

Mr. Creasy testified that he had prepared the engineering report identified as Staff Exhibit A. He indicated that the rate of return study prepared by him contained in the report was made to illustrate the net income which Respondent Caviness could expect from his water utilities operations

during a 12-month period based on his serving approximately 300 customers at that time. Such study also illustrated the effect of a reduction in rates consistent with the alternatives in the Commission's Order of October 12, 1971. Pages 11 and 12 of the report contain specific recommendations for improvements in the Oak Haven and Crown Point Subdivisions. Mr. Creasy testified that the recommendations mentioned concerning specific deficiencies would not correct minor deficiencies such as leaks, waterlogged tanks, objectional loud noises, and reinstalling equipment to operate more efficiently. He recommended an arrangement whereby a local representative of the utility would be available to answer calls by the customers on a 24-hour per day 7 days per week basis. He testified that such representative must have the authority to provide any maintenance required on existing equipment and make routine inspections of the water system. Such representative must also have the authority to make emergency repairs to existing equipment and to replace existing equipment with equipment more suitable for the purpose intended in order to restore water service after emergency interruptions. Such representative should have the authority to hire subcontractors and engineers to assist in the work whenever necessary in order to restore water service after an emergency interruption. He testified that, in his opinion, Respondent Caviness was unwilling and unable to provide adequate and efficient water service in Oak Haven and Crown Point Subdivisions.

Mr. Creasy testified that he made an on-site inspection of the Oak Haven Subdivision the morning of November 1, 1971. His investigation revealed no leaks at the mains and no exposed mains and that the check-valves operated without noise. However, it further revealed that the pressure tank was waterlogged with insufficient air volume, that the pump houses were not completed, and that at Well No. 2, leaks in the plumbing had been repaired but the 10,000 gallon tank was still leaking in its seam.

On June 28, 1971, Mr. Creasy stated that he notified Respondent Caviness concerning certain recommendations with respect to Crown Point Subdivision water system. The letter concerned a joint site inspection made by Mr. Creasy, along with Mr. Caviness, on June 24, 1971, to determine the cause of customer complaints. Mr. Creasy stated that the Respondent stated at that time that he would do whatever necessary to solve the problems and that he would begin work immediately.

Mr. Creasy testified that the problems in Crown Point appeared to be frequent breakdowns of the pump at the well, lack of adequate chlorination to eliminate the sulfide taste, and inefficient use of the large pressure tank at the well.

He stated he made a site inspection of the Crown Point system on September 3, 1971. He stated that Respondent

Caviness had not responded to his letter of June 28, 1971, or to a follow-up letter on August 6, 1971, and that he made the investigation because the Staff continued to receive complaints regarding the water service.

He stated that, in his opinion, the service in Crown Point is not adequate or efficient and he determined from his own investigations that the system was inadequately designed and inadequately maintained. He stated that the system was poorly constructed and could be expected to require a great deal of maintenance and that maintenance by the Respondent had proved unsatisfactory. Mr. Creasy testified that even if Respondent were to make all the improvements recommended in his engineering report and were to make all arrangements for administration recommended by him, that he would still recommend that the Respondent not be allowed to continue in the operation of the water utility systems in Oak Haven or Crown Point. He stated that the Respondent has shown by his past actions in these proceedings that he is unwilling to take the initiative in resolving the problems relating to administration of his water utility operations. All the arrangements recommended by him in the report were dependent on the willingness of Mr. Caviness to support such arrangements.

On October 29, 1971, Mr. Creasy stated he made an investigation of the Oak Haven Subdivision to determine the extent of Respondent Caviness' compliance of the Commission's Order of July 21, 1971. His investigation revealed that although one pump house had been built, the other pump house had not been constructed. He further stated the electrical control for one pump house was still on the outside of the wall and that the tank was not painted. He further testified that the tank at Well No. 1 had not been reinstalled on a proper base and that, in his opinion, 90 days was an adequate and reasonable time to complete the requirements of the Commission's Order about which he was testifying. He stated that the condition which existed and was referred to in the Commission's Order of July 21, 1971, regarding electrical switches and wiring as being accessible to small children was unchanged.

Since the Spring of 1970, he stated that he had been to the Oak Haven Subdivision about 2 dozen times and that most of his inspections were a result of complaints concerning lack of pressure. Most of the time this resulted from the pump being off and the well not pumping an adequate amount of water.

With respect to Part 1 of the Commission's Order of July 21, 1971, he stated that everything had been done by the Respondent but with respect to Part 2, the storage tank had not been realigned and painted, the pump houses not completed, and the electrical switches were still not enclosed.

With respect to Oak Haven, Mr. Creasy testified that when the problems started in the Spring of 1970, one of the main causes in the interruption of service was breaks in the water mains. During subsequent investigations, he stated he saw some of the pipes that were laid in the ditches. Sometimes the joints were not properly aligned and the ditches were backfilled and not tamped. He stated that the shallow main depth caused many of the breaks in the water mains. During the initial construction when a pipeline ditch is backfilled and not properly covered or tamped, the mains would break as a result of heavy traffic and trucks during the early part of the subdivision's development.

He stated he did not believe Respondent Caviness is fit, willing and able to provide adequate and efficient water service in Oak Haven and Crown Point subdivisions because, as he had testified in previous hearings, he believed Respondent Caviness was "in over his head". While Mr. Caviness gives his attention to one phase of the business, such as maintenance, Mr. Creasy stated he does not have time, resources, work force or whatever it takes to give attention to maintenance in another subdivision.

Mr. Charles E. Rundgren, Sanitary Engineer of the North Carolina State Board of Health, testified that he had been personally familiar with the water operation of Mr. Caviness in Oak Haven Subdivision since approximately July, 1969. He stated that his agency had found Respondent Caviness delinquent in submitting monthly samples for bacteriological samples. He stated in 1970 Respondent Caviness was delinquent 8 times and 6 times in 1971. He stated that the monthly reports regarding Oak Haven indicated the presence of coliform bacteria. He stated that such bacteria was an indicator of pollution in the water system and that while not harmful to health in themselves, their presence indicated a strong possibility of pathogenic bacteria being present. He testified that Respondent Caviness had been cooperative with his agency in a very reluctant manner. He stated it would take 2 or 3 conversations with Respondent Caviness and visits with him to accomplish something and that he had found Mr. Caviness had deliberately installed piping at a wellhead directly opposed to the approved plans and specifications by his agency. He further said that while it would have been much easier to do a job properly to begin with, Mr. Caviness apparently would attempt to do things cheaply or as inexpensively as possible and that such changes would later require revisions and that such revisions were made only after several specific requests, not one, from his agency.

Mr. Rundgren stated that there was a strong possibility that the coliform bacteria resulted from inadequate sampling techniques by Mr. Caviness or his representatives.

Mr. Rundgren stated that Mr. Caviness had been prosecuted for failure to submit monthly samples of water for

bacteriological analysis by the State Board of Health with respect to the Crown Point Subdivision.

Mr. Ralph B. Harper, Sanitary Engineering Technician with the North Carolina State Board of Health, testified that he has been personally familiar with the water operation of W. E. Caviness in the Crown Point Subdivision approximately 4 years. He stated on January 5, 1971, his agency sent Mr. Caviness 11 sample containers in order to furnish samples and that Mr. Caviness had returned 5 of them. Of the 5 returned, he stated 2 of them indicated the presence of coliform bacteria. He stated as a result of Mr. Caviness' failing to return the sample bottles, he was prosecuted and convicted on October 6, 1971, and given a suspended sentence by the District Court in Onslow County. Mr. Harper testified concerning his participation in investigations of the Crown Point Subdivision water system which resulted in the State Board of Health's withdrawal of its approval on December 9, 1969. He stated he did not believe that Mr. Caviness is capable of operating and maintaining the system like it should be operated and maintained.

He testified that not every water system in Onslow County has a taste and odor in its water.

With respect to the Board of Health's recommendation that Mr. Caviness place a sanitary well seal on top of the casing, he stated that Mr. Caviness had made such replacement but that it took between 2 and 3 months to correct this deficiency, although such correction was a "one-half hour's operation".

He stated that the chemical feed pump was not operating properly and that it should operate in such a manner that chlorine residual could be found throughout the system. He stated he had observed the pump for 2 years and that he would suggest that Mr. Caviness properly maintain it and check on it several times a week to make sure it was operating properly.

At the conclusion of Mr. Harper's testimony, the Commission recessed the proceedings because time did permit completion of the hearing and the taking of public witness testimony of the residents of Oak Haven.

NOVEMBER 19, 1971 HEARING:

The Show Cause Hearing was resumed in Jacksonville before Commissioner Wells, sitting as a Hearing Commissioner, pursuant to stipulation by Respondent Caviness.

Mrs. Joyce Chase testified that she has lived in Crown Point Subdivision since February 1, 1971, and on occasions had experienced difficulties with the water service and while she could not remember specific dates, she was without water Friday preceding the hearing, the latter part of August, in June or early July and sometime in the Spring.

She stated that on the Friday mentioned, the water was off from 5:30 A.M. to 3:30 P.M., and that in August, the water was off from about 8:30 Friday night until Sunday. She stated the water was off Labor Day weekend and that there had been times when the pressure was inadequate and she had been unable to fill her washing machine in the usual length of time. She stated the low pressure difficulties usually preceded the outages.

She testified that she had attempted to contact Mr. Caviness on several occasions and that he was not at home. She had talked with his wife on occasion. She stated that about 45 of the residents of Crown Point met with Caviness in August, 1971, and that he had promised to have a backup pump installed at the pump house within 60 days and also to start another well. She also stated that he indicated he would hire someone from Crown Point to be available to the residents and a local number would be available because Jacksonville was a toll call.

She testified that the water was almost impossible to drink on some days because of the very foul odor and that it had to be kept in the refrigerator and that this situation existed as recent as a few days prior to the hearing and occurred every couple of days on a frequent basis. She stated that the water also tasted bad and that she was never able to drink the water from the tap. She further stated that the water stained and discolored plumbing fixtures. She stated she believed the rates were high for the service she was receiving and that it was almost impossible to run water to water the lawn, that her bill would go from $30, $40 to $50. She stated that Mr. Thompson and Mr. Bouchard, both of whom work for Mr. Knight, the developer, had done work on the water system. She stated when the water was off Friday before the hearing, she had observed a flood in front of the model home but did not know what had happened to the water system. She stated she had stopped Mr. Caviness on occasions when he was reading meters to ask him about the water system outages.

Mrs. Betty Thompson testified that she has lived in Crown Point since September 9, 1970. She stated that the water was off on June 23, July 7, August 20 and 21, and October 28, 1971. She stated that it costs her 30 cents to call Jacksonville to complain to Mr. Caviness and that he was not available. She stated that a woman who answers the phone did not give assurances that Mr. Caviness or someone would correct the problems. She attended the meeting in August, 1971, at which time Mr. Caviness promised within 60 days to have the pump set up and have someone available for maintenance in case of emergencies. She stated that the water was off for more than 2 hours and as much as 2 days on the occasions mentioned.

She also testified regarding low pressure which she associated with the ultimate outages and stated the taste and smell of the water was such that she could hardly drink

it. She also testified regarding staining of fixtures by the water. She stated that her water bill was high and at one time, the bill was $38, $37 and at one time $41, but recently was running around $8.40 a month. She stated she approached Mr. Caviness when he was reading her meter and that he said he had told her husband that there was a leak in her line. She stated she called Mr. Caviness approximately 4 times and that each time a woman answered. After such calls, a long period elapsed before the complaints were corrected. She stated a new meter had been installed at her home approximately August, 1971, and that thereafter, her bill had dropped. She stated she could not water her lawn because of insufficient pressure.

Mr. W. M. Knight testified that he is President of Crown Point Development Corporation, developer of Crown Point Subdivision, and that he owns 50% of the stock of the corporation. He stated that it was the only business responsible for developing real estate in Crown Point. He stated he had agreed to pay Mr. Caviness $250 per tap.

Mr. Knight stated that there were 85 residences in the subdivision as of the date of the hearing and that 43 of the residences were added during 1971, and that approximately 20 homes were added in 1970, 10 or 12 in 1969, and that there were 175 homes proposed for the subdivision. He stated that he was familiar with the provisions of the contract entered on January, 1968, whereby a restriction would be placed in the deeds of the homeowners of Crown Point Subdivision prohibiting individual wells. He stated that he had deeded 2 well sites and that the current well in operation was on Lot 29 and that Lot 161 had also been conveyed for the purpose of a well site. He stated that while the well lots were odd-shaped lots, they contained over 10,000 sq. ft.

He stated that the people of Crown Point had been in contact with him concerning difficulties with the water constantly. He stated that he would attempt to get in touch with Mr. Caviness and the majority of the time he was not in Jacksonville and he had to talk to his wife. He stated that Mr. Caviness paid him for any work done by his employees but that all he would charge Mr. Caviness was labor. He stated he had never had to add any kind of equipment to the system. He indicated that in 1970, he had advanced Mr. Caviness approximately $4,200 to purchase pipe. Mr. Knight stated that at the present time, he owed Mr. Caviness $1,000 but had received no bill for it. He stated he had selected another lot for the 2nd well site because the tank would be more visible on the lot previously conveyed. He stated that he had discussed the matter with Mr. Caviness for about 5 months and that he had told him he would convey title to him any time he could get a deed back on the previously conveyed well site. He stated that he lived in the model home next to the well site on Lot 29 but that he also lived in Hertford, N. C. He stated that he had difficulties selling some homes because of complaints with the water system. He stated he paid Mr. Caviness a $250 tap fee per lot for all

of the 85 lots with the exception of the $1,000 which he stated he owes to Mr. Caviness.

Mrs. Lorraine Horan testified that she has lived in the subdivision since November, 1969, that the water was out the first week she lived there. She stated she had the same experience testified to by the previous witnesses but added that the smell and odor had gotten worse in the last few months. She stated she had called Mr. Caviness 10 times and was never able to get him personally, but reached his wife by phone.

Mrs. Elizabeth Cummings testified that she has lived in the subdivision since May, 1971, and she would testify substantially the same as the other witnesses. She stated as a military wife she traveled a lot. She stated her 12-year old son was living in his 15th house and that she had never encountered difficulties of the type encountered in Crown Point.

Mr. William Hall testified that he has lived in Crown Point since May 6, 1971, and would testify substantially the same as the other witnesses. He added that regarding the duration of the water outages on 2 occasions the water was out for 18 hours and once for about 30 hours since he lived there.

Mrs. Marion Boulden stated her testimony would be similar to the other witnesses. She testified she has lived in the subdivision since May 1, 1971, and that the smell had gotten worse recently. She stated she had a baby six-weeks old and had to use a sifter to empty the water 6 times because of the particles or flakes of dirt. When she boiled water for formula, there was a scum on pots and pans. She stated these problems had existed for several months and were continuing problems.

Mrs. June Anderson testified she has lived in the subdivision since March 18, 1971, and her testimony would be substantially the same as other witnesses.

Mr. Kenneth Terrell, a resident of Hubert, N. C., testified that as a plumber, he worked for W. M. Knight on a subcontracting basis. He stated he had repaired the master water line in Crown Point twice. He stated he would perform work if he could not get hold of Caviness and bill Mr. Knight. He stated the 5 hp pump on the well was not adequate and that it should be at least 7 hp with a 4-inch suction line on it. He stated that he noticed condensation on the pump constantly and that he would use a submersible type or ventilate the existing pump to correct that problem. He stated that he had repaired the return line and made repairs to the pump at the well in the form of repacking.

He stated that he was not making substantial expenditures of money to obtain equipment. He stated that he told Mr. Caviness about the bad odor of the water and Mr. Caviness

said he was taking care of it. He stated that he had told him the pump was not big enough. He stated if repairs involved a lot of money, he would call Mr. Caviness first. By a "lot of money", he meant $200 or $300.

He stated he would not put in any equipment without contacting Mr. Caviness and that the repairs he had made were to existing facilities.

Mr. Lawrence W. Smith testified that he has lived in the subdivision since June, 1968, and was one of the original residents. He stated his testimony would be substantially the same as the other witnesses. He stated that when he moved to Crown Point in 1968, there were problems with regard to the odor and color of the water. He stated that he had 8 other homes as rental property in Crown Point, and when problems occurred, the tenants looked to him to do something. On or about August 20, 1971, when the water was out, he attempted to contact Mr. Caviness' wife on Friday evening and she told him that she was aware of the situation and that Mr. Caviness would take care of it Monday. He stated he had returned to the military base and obtained 3 water tankards from the 10th Marine Division for the purpose of providing water to the residents. He stated he has 7 children of his own and there were many children in the subdivision. He further said that the residents were not given notice prior to the outages. He stated that he did not understand the fluctuation of gallons consumed, comparing a consumption in July, 1971, of 11,000 gallons to October, 1971, of 16,000 and 7,000 gallons in January. He related the outages to increases in his water bill citing October, 16,000 gallons; August, 19,000 gallons, and April, 18,000, during which months there were outages.

Mr. John Kadlicik testified that he has lived in the subdivision since December, 1970, and stated he would testify substantially the same as the other witnesses. He stated he had received no warning about potential outages except from the indication of inadequate pressure. He stated he had not experienced water with such an offensive odor in a residential area in the continental United States. He stated he had lived in approximately 10 different residences in the United States and had definitely not encountered the difficulties with insufficient water, stains, taste and odor which he had experienced in Crown Point. He further stated that the major complaint was the management of the utility itself.

Mr. David Creasy, Commission Utilities Engineer, testified he had reviewed the data and records of the Commission which relate to the service of W. E. Caviness in Crown Point Subdivision and had testified on November 1, 1971, in connection with the staff report.

He stated he made a subsequent investigation since September 3, 1971. On November 18, he stated Mr. Caviness had installed a small fan to blow on the pump to keep the

condensation down, that it did not eliminate it but it helped. He testified that casing had been placed on the well but that it had not been raised above the surface of the ground and that instead of raising the casing or sloping the ground away from the entrance to the well and putting concrete around it, Mr. Caviness had excavated the entrance to the well, installed a chlorinator and that there were exposed lines from the well toward the pump house and that the well was not enclosed in the pump house. He stated that considering the amount of condensation and the fact that the pump had burned out, he would recommend putting in a submersible pump directly in the well.

He stated that he wrote Mr. Caviness a letter on June 28, 1971, which was attached to his direct testimony as Exhibit C, making certain recommendations, and that he had received no response from Caviness.

Mr. Creasy reviewed the books and records furnished to the Commission Staff by Mr. Caviness with respect to his metering records. He stated he had 2 unmetered customers which were new in September, 1971, 56 metered customers and 17 metered customers which had been unmetered for a period of 3 months or more. He stated that reviewing all of the subdivisions provided certificated service by Caviness, the overall average consumption for metered customers would be approximately 6,900 gallons per month and that he had a total of 317 customers altogether, although not all of them are metered. Mr. Creasy stated that the staff engineering report should be revised based upon his inspection of the books and records furnished and that the estimated consumption and number of customers, instead of 6,000 gallons a month and 300 customers, should be revised to 317 customers and approximately 6,900 gallons per month.

He stated that, in his opinion, a second well installation was necessary in the Crown Point Subdivision prior to reaching 100 customers. He stated that Mr. Caviness could obtain an additional supply if a booster pump were installed and the pressure tank converted to ground storage. He stated he began working on difficulties in Crown Point approximately since May, 1971. He testified that based on subsequent investigation he had not changed his opinion testified to in the November 1 hearing, that Mr. Caviness had demonstrated that he is not fit, willing and able to provide adequate and efficient water service in the Crown Point Subdivision, because Mr. Caviness still had too much for him to handle. He stated that he did not think Mr. Caviness had responded reasonably to the complaints by the customers and further had not responded reasonably to the Commission Staff's inquiries. He stated that the 40,000 gallon pressure tank should be sufficient.

Mr. Creasy stated the Board of Health had withdrawn approval of the system in 1969 and had never reinstated its approval. He stated such approval was withdrawn because the system did not have adequate chlorine in the water, had

leaking valves and fittings at the well site, inadequate operating pressures and poor operation and maintenance practices resulting in frequent service interruptions. His testimony in this regard is substantiated by Staff Exhibit 3, the Report of the North Carolina State Board of Health.

He stated that he made an on-site inspection with Mr. Caviness on June 24, 1971, and that the inspection resulted in his letter of June 28. He stated that his opinion regarding the ability of Mr. Caviness to furnish adequate and efficient water service was based upon the many outages in Crown Point and that the residents could not contact Mr. Caviness to make emergency repairs. He stated that the residents could not obtain reasonable responses from Mr. Caviness, and the problems in Oak Haven had been occurring for about 18 months from the time they first began, and that in Crown Point the difficulties had been going on approximately 6 months.

Mr. Jack Sweatte, Plant Superintendent of Jones-Onslow Electric Company, testified regarding whether there may have been low voltage at certain periods of time in April, 1971, and the day of the hearing, which may have resulted in the burning out of the pump on the water system. He stated he had inspected his company records regarding voltage in that area and that as of March 31, 1971, a new substation about a mile and a half from the subdivision would remove any possibility of low voltage there today. He stated that prior to the date of completion of the new substation, voltage regulators were available and recorded the voltage and he did not see how there was a possibility of low voltage to the extent to burn out the motor. He stated the voltage regulators were read monthly.

Mr. Joe Powner, Sanitarian with the Onslow County Health Department, testified that he had investigated the water system in Crown Point along with Ralph Harper of the State Board of Health on November 23, 1969. The investigation revealed that there was a leaking tank. The pressure was checked and a maximum reading of 20 pounds was determined. The chlorinator was not working at that time. He stated that a week prior to the hearing, he had investigated the well slab installed by Mr. Caviness. His investigation revealed that the well slab should be sloped away from the surface because water would accumulate and that the reason for having the slab was to keep the surface water from draining down the casing, and that if it was not sloped properly, in his opinion, it would be a health hazard. He stated that he had been with the County Health Department about 5 years and that he was familiar with the water system in Crown Point Subdivision and with Mr. Caviness. He stated that the Onslow County Health Department was concerned with sewage disposal and drainage and had no jurisdiction over the water system in Crown Point except to assist the State Board of Health when they requested it. He stated that there were regulations issued by the Federal Housing Authority and the Veterans Administration and that if an

individual wanted to establish an individual well in the Crown Point Subdivision, his Department would not approve such individual well on a lot less than 20,000 sq. ft. He stated that practically all the homes in the subdivision were under VA loans. He indicated that the State Board of Health had not reinstated approval of the Crown Point system since its withdrawal in December, 1969. He stated that an inspection by the Onslow County Health Department was necessary before the closing of a VA loan with respect to the sewage disposal system and not the water system.

The Respondent offered the following two witnesses:

Benjamin Smith testified that he had rewired electric motors and that when Mr. Caviness had problems when he was not in town, Caviness' wife usually contacted him by telephone. He stated the first time he went to the system, the pump centerface had burned up. He took it to a man to have it rewound. He stated the plug had blown out of one of the lines on another occasion. He said that he could not remember the person's name but he had someone else to repair that. He stated that water in the Jacksonville area has a smell and taste and that he could not drink it in the past unless it was cold. He stated that the month prior to the hearing, he had seen a pump which Mr. Caviness proposed to install and that when he went to pick it up, it was gone. He stated that he was employed by Electric Motor Rewinding Company, located on Hwy. 17 North. He stated 2 months prior to his employment, he had worked with the city. He stated that in regard to his statement that he could not drink Jacksonville's water unless it was cold, that the situation had changed 4 or 5 years ago and that the water had improved in the last 4 or 5 years.

Mrs. Eloise Caviness testified that she would take calls and get someone to work on her husband's water systems. She stated every time she received a call, she always did her best to get someone, but sometimes she could not. She stated that she used to call Mr. Simpson when Ben was working with the City. Now she calls Sid Lunsford, owner of Electric Motor Rewinding Company. Mrs. Caviness stated she had no responsibility for keeping books for the utility operations and that her husband never authorized her to call anyone else other than Ben. She stated she didn't know anyone else to call other than Mr. Iredell White.

She stated that her husband was away from home and had been for 4 or 5 years, and that for all practical purposes when persons called, she and her son, Herbert, were the persons that the residents would turn to for maintenance. She stated that Herbert works each day until about 4:30 and was not available for water utility maintenance service except in the evenings.

NOVEMBER 22, 1971 HEARING:

The show cause proceedings were resumed for the taking of testimony of public witnesses who are residents of Oak Haven Subdivision and who were unable to testify at the November 1, 1971 hearing, because time did not permit.

Mr. Marvin Edwards testified that he has lived in Oak Haven since January 15, 1971. He stated that he had been asked by his counsel to inspect the 2 well sites in Oak Haven prior to the hearing, and that he had done so between 12:00 and 12:30 P.M. and 2:00 P.M. on November 22, 1971. He stated his examination of well site No. 1 indicated that a pump house had been built around one end of the horizontal tank to partially cover the pump and there was a tremendous hole in one end that he assumed was for the purpose of reading the meter but it did not shut out cold air to prevent freezing. He also stated he examined the switch box and wiring inside the pump house and determined that the wires leading to the ground were not enclosed in conduit. He described the pump house as being a cinder block building with a plywood roof which was not painted. He stated one tank was painted silver and the other was not painted at all.

He further testified that the large storage tank looked like it was ready to fall over.

He stated that on the well itself, there was a concrete block structure about 4 1/2 ft. sq. and about 2 ft. tall, and that there was a piece of 5/8 inch plywood laid across the opening upon which was laid a concrete block that a child could push off.

He stated that Well Site No. 1 had been graded with a bulldozer but since the grading the water had corroded the land quite bad and that it would not be long, in his opinion, before the land itself would be washed in the street.

He further testified that he had inspected Well Site No. 2 on November 22, 1971, at the times previously indicated. He stated there was a house that had been built around the end of the well, a concrete block structure with a wooden roof similar to the other one consisting of rolled tar paper. He said that there was no way to get into that structure. He further stated one would have to take the roof off to get inside the well house inasmuch as there was no access door or other way to service the well.

Several photographs were marked as intervenor exhibits depicting the conditions described by Mr. Edwards.

Mr. Edwards stated the lot at well site No. 2 had been graded similar to well site No. 1 and further stated that the big silver tank on that site was rusty around the middle where there was a leak because it was still wet and water

was coming out. He stated the building had not been painted. He testified that the houses in Oak Haven sold for generally in the range of $21,000 to $32,000.

He stated that the water was off in Oak Haven on Monday night preceding the hearing for 4 1/2 hours due to a broken water main. He testified that there was sand or some sediment in the water which corroded the fixtures in his house and such corrosion could not be cleaned with steel wool.

He testified that he had electrical training.

Mr. Edwards further testified that he had called Mr. Caviness' residence in Jacksonville 2 or 3 times in July and August and did not get an answer.

He testified that he did not consider the water service he had been receiving in Oak Haven to be reasonably adequate.

Mrs. Raymond Clark testified that she has lived in Oak Haven Subdivision since January of 1970, and was familiar with the water system and the problems the residents of Oak Haven had experienced. She testified that since the last hearing on June 21, 1971, she had attempted to record the dates when the water was off and that it was off 16 times, including an outage on the day of the June 21 hearing. She stated the water was off on June 21, June 26, July 11, July 12, July 17, August 4, August 12, August 20, August 21, September 1, September 11, September 14, September 20, October 13, October 30 and November 15, 1971.

She stated that she did not know all the reasons the water was off but at least once a month, it was off to drain the tank because of low pressure. She stated once the wires burned out at one of the well sites and on 3 occasions, there were breaks in the water mains or leak in the system. She stated she received this information from Hasty Pump Sales & Service.

Mrs. Clark testified that the water was off 4 1/2 hours preceding the hearing on Monday.

She stated that on 2 occasions, Mr. Caviness had disconnected her water service without any advance written notice. On the first occasion, she stated Mr. Caviness came to her door and told her to pay everything or he would cut the water off. On the second occasion, she stated she had no notice at all.

She indicated she had the same complaints as the other residents except that she had a lot of air in her line and apparently her neighbors did not. She stated there was a discoloration in her toilet and the water contained a gritty substance. She also said there was residue in the tub.

She stated that the residents of Oak Haven had formed an association to represent their interest in this matter before this Commission, and that thus far, it had incurred approximately $1500 in legal fees.

She stated that the residents had invited Mr. Caviness to the meeting Monday night preceding the hearing by letter sent to his address in Jacksonville, but that he did not come to the meeting.

She stated that the water had been off as much as 5 or 6 hours in 1971.

Mr. Eugene M. Simmons, Jr. testified that he has lived in Oak Haven since April, 1971. He listed the names of certain persons who did not have meters but said he did not check all the houses. He testified concerning interruptions and that there was grit or sand in the water.

He stated this was the third hearing he had attended and that he estimated the difficulties resulting in his attendance had cost him approximately $500.

He stated he was Vice President of the Association of Property Owners and that the Association had held 5 meetings. He stated that he did not consider the water system in Oak Haven to be adequate.

With respect to the general appearance of the well lots as compared with the remainder of the neighborhood, he stated that the well lots looked much worse than the worse lot there which was owned by one of the builders and cleaned up 3 months prior to the hearing.

Mrs. Louise McHale testified that she had lived in Oak Haven since May, 1971. She stated that her home was financed but that she was unable to close her loan because the FHA would not close any loans until the water situation was satisfactory. As a result she was paying $6.50 per day rental since May.

She stated that she had been boiling the water she used for her children because her children had been sick. She stated that her children had had strep throat and diarrhea and that her doctor had suggested that she boil the water. She stated she had done so for about 2 weeks prior to the hearing.

Mrs. Mary Jo Ferrell testified that she has lived in Oak Haven since July, 1971. She stated the difficulties she had encountered with the water system had been similar to those described by the other witnesses. She indicated that her bathroom fixtures were discolored because of the water.

She stated on October 28, 1971, that 7 holes in her lawn had been dug by employees of Mr. Caviness, who were digging nearby at the time she arrived home. She indicated she had

spent quite a bit of money planting grass and landscaping her lawn. She stated that the men told her they were digging the holes searching for her water line. She indicated her husband fixed the yard but it took a good half day's labor.

Mr. John M. Chapman testified that he has lived in Oak Haven since July, 1971, and that he was a safety engineer with an insurance company and had been affiliated with water systems in making inspections in regard to workmen's compensation coverage and liability coverage, with contractors installing water systems such as the one in Oak Haven.

He stated he did not consider the water service furnished in Oak Haven to be adequate. He further stated he had experienced the problems testified to by other witnesses.

He stated the water system on Willow Oak Road was not operative at the time he moved in. He decided to move in and received permission from one of his neighbors to get water from his house and pay him 1/2 of his bill, by means of a water hose connection which was used from 3 1/2 to 5 weeks. He stated that his meter casing was not installed properly and that the meter housing was not lowered to the level of the bank, and that he requested one of Mr. Caviness' employees to come back and lower the housing to the level of the front lawn.

He stated he had been unable to close his loan with the FHA because of the water system in Oak Haven.

As a safety engineer, he testified that intervenor exhibit No. 13 depicted that the electrical wiring was inadequate and unsafe and that such wiring should be in conduit underground with all outside meter casing in weatherproof boxes, although it is preferable that such be inside a covered shed. He stated that he would not recommend insurance coverage on such construction to his company because he considered such construction dangerous.

Mr. Leonard Lewis testified that he has lived in Oak Haven since April, 1970, and that he has experienced the same difficulties testified to by the previous witnesses. He stated he did not consider the water system in Oak Haven to be adequate. He estimated that he had lost approximately 25 to 30 hours because of difficulties with the water system, and that such would amount to approximately $300 in expense to him.

Mr. W. Earl Perry testified that he had lived in Oak Haven since August 1, 1971. He stated when he received his first bill, there was a $10 deposit charge, a $2 service charge and a $4.50 minimum charge for water. He had written Mr. Caviness expressing dissatisfaction with his bill. He stated Mr. Caviness returned his bill with a reply written

on the back of it. He indicated his loan had not been closed by the FHA.

Mr. R. B. Tomlinson testified that he has lived in Oak Haven since November, 1970. He stated while his consumption ran around about 6,000, 7,000 or 8,000 gallons that in June or July of 1971, he received a bill for water consumption for 12,000 gallons. He stated he was experiencing an unusual amount of air in his line at the time of the high bill. He testified that he had experienced 5 interruptions in his water service.

Mr. O. B. Tessenear, Jr. testified that he has lived in Oak Haven since November, 1969. He stated that the day he moved in the water was out for 8 hours and he had to go out and eat supper the night he moved in. He testified that he had been to every hearing held before the Commission regarding Oak Haven, and further stated that the water was off during a 6-month period and the residents never complained to anybody because they did not know who to complain to or about. He stated he has had air in his lines practically ever since he has lived there.

NOVEMBER 29, 1971 HEARING:

The show cause proceedings were resumed for the purpose of receiving the testimony of Staff witnesses and Mr. Caviness because time did not permit such testimony at the November 22, 1971 hearing regarding public witness testimony of the Oak Haven residents.

Mr. Curtis Griggs, Operations Specialist of the Commission, testified that 2 specific complaints were directed to him regarding water service by W. E. Caviness in Oak Haven Subdivision. He stated that he followed the usual procedure and wrote to the utility in both instances at 118 Poplar Street, Jacksonville, North Carolina. The complaints referred to were complaints of Louis Kempf and W. Earl Perry. He stated the Commission did not receive a response from Mr. Caviness concerning the complaints.

Mr. David Creasy, Commission Utilities Engineer, testified that he had examined the Commission's records regarding service interruptions and monthly reports required to be filed by all water utilities regarding service interruptions of 2 hours or more. His examination revealed that no reports were filed in 1969 by Mr. Caviness and none were filed in 1970. Mr. Caviness filed an interruption report in June, 1971, for Crown Point which said report was identified as Staff Exhibit No. 5. Mr. Creasy stated that Mr. Caviness had 25 or more customers some time in 1964. Mr. Creasy testified that his investigation revealed that notice was not given by Mr. Caviness in advance of planned interruptions or outages.

Mr. William E. Carter, Jr., Staff Accountant, testified that he had reviewed the financial data submitted by Mr.

Caviness in response to the Commission's Orders dated October 28 and November 4, 1971.

He indicated Exhibit No. 1 prepared by him was a summary of the checking account of Mr. Caviness, t/a Touch & Flow Water Systems, for the period January 1, 1970 to November 30, 1970. He observed that Mr. Caviness' bank account was being used for personal as well as business use. Total deposits for the period greatly exceeded revenues associated with the water system as supported in the annual report. Additionally, checks written during the period exceed cash expenses associated with the water system as reported in the Annual Report for 1970. He noted that the check number series varied and that a very small balance was maintained in the account most of the period. He further stated that Mr. Caviness was required to pay $168 for bank charges, connected with insufficient funds for the 11 months ending November 30, 1970.

With respect to the invoices submitted by Mr. Caviness, Mr. Carter testified that the records furnished indicated Mr. Caviness was slow in paying his invoices. He said many statements were overdue several months when paid and that some of the statements contained threats of legal action to enforce payment. He testified that included in the financial data submitted by Mr. Caviness was mail dating from October, 1970, to August, 1971, which had never been opened. Much of it was from parties to whom payments were made in 1970. He stated he did not open this mail or examine the contents.

With respect to Exhibit 2, being the unaudited statement of William D. Aman, Certified Public Accountant, filed on Mr. Caviness' behalf, Mr. Carter testified that it indicated small balances in his cash account. He further testified that current assets should exceed current liabilities, but the statement indicated current liabilities of Mr. Caviness exceeded current assets by $8,292.36. Additionally, he stated that all of the net fixed assets in the amount of $103,200.54 were pledged as collateral on notes payable in the amount of $62,907.43 to the Small Business Administration, and $2,458.98 to General Motors Acceptance Corporation.

Mr. Carter testified that while Mr. Caviness was ordered to make available to the Commission all of his books and records, he had submitted no general ledger or journals. He stated that Mr. Caviness did not submit a general ledger or journal of cash receipts or disbursements. He recommended that Mr. Caviness furnish such along with establishment of a bank account for the water system limited to receipts and disbursements of the water system and stated that personal transactions should not be conducted from such bank account.

He further testified that it was not possible to make a cash flow determination for the period January, 1971, to November 29, 1971, because of the absence of any record of

disbursements and receipts. All that he could do by way of testimony and exhibits was to summarize the activity of Mr. Caviness' checking account since there was no summary of expenses or indications of the sources of money deposited.

Mr. Carter further indicated that the small bank balance as reflected on his exhibits did not allow a cushion for any kind of unexpected cash payments. He stated Mr. Caviness' current liabilities were about twice his current assets.

In connection with the Commission's Order of October 28, 1971, requiring financial data to be filed, Mr. Carter testified that Mr. Caviness did not submit disbursement or voucher register cash receipts or general ledger of any type. The only thing he did submit was bank statements, invoices, and miscellaneous data. Mr. Carter stated that any business should at a minimum maintain receipts and cash disbursement journals and general ledgers. In comparing Mr. Caviness' bookkeeping procedures with normal business procedures, he stated that Mr. Caviness' records were very poor. He stated he could not as a CPA make an analysis of Mr. Caviness' business from his records to certify to the Commission with any confidence the nature of his financial operations.

Mr. Carter stated that the 1970 Annual Report filed by Mr. Caviness stated his net worth had increased to approximately $46,000 from $40,000 in 1969, and that the information furnished by Mr. Aman showed a net loss of $10,514.65 for the year ended December 31, 1970.

Mr. Carter stated that he had not performed an audit but that his exhibits and testimony related to his summarization of the data filed by Mr. Caviness pursuant to the Commission's Order.

He stated that in his experience as a public accountant he did not recall any persons that ever used a bank account and their checks as cash receipts and disbursement ledger.

Respondent W. E. Caviness testified that as of the hearing he was providing service to around 317 customers. He stated he had 85 customers in Oak Haven Subdivision then receiving water service. He stated that he constructed both pump houses in Oak Haven but that he had not enclosed the switchbox for one of the pump houses. He stated that on Well Site No. 1 he had not yet painted the pump house and put a lock on it. He stated that Well Site No. 2 in Oak Haven had been graded and cleaned up but the switchbox was not enclosed. Upon direct examination by his counsel, Mr. Caviness stated he had tentatively worked out plans for supervision and maintenance of the Oak Haven water system. He stated that his son was going to move to Raleigh next week. He stated his name was James Edward Caviness and that he would be solely concerned with the water company at all times. He further stated that he would have charge of all four Wake County water systems certificated to Mr. Caviness.

Mr. Caviness further stated that he had an agreement with Pawls Pump Company that they would be on a 24-hour notice to maintain the pumps at all times. However, no written agreement was filed as of the hearing date.

He stated he had been giving notice to customers in Oak Haven of planned interruptions, that he sent someone to the door of each residence to tell them service was going to be interrupted.

Mr. Caviness testified that he did not keep a list or record of any type of interruptions that he had in Oak Haven. He stated the only reason he had disconnected water service was for non-payment of bills.

In response to a question from his counsel regarding whether or not he maintained records from month to month or from day to day, Mr. Caviness responded that he did not "keep too good a record. I am not too good a bookkeeper." He further testified that he did not have cash receipt books or cash disbursement books and did not use any voucher for payment. He stated that his normal operation for handling incoming cash or checks and paying bills was to deposit whatever money he had in the bank and write checks against such deposits to pay whatever bill comes available first. He stated he did not keep a running account in his checkbook of checks written. With respect to contributions in aid of construction, he stated that some were paid directly by the developer to the supplier; some directly to him and he deposited the money. He testified that around $24,000 to $26,000 had probably been paid by the contractor to the supplier in Oak Haven Subdivision. He also stated that in Crown Point Subdivision the developer paid some of the bills and he paid some of them. He acknowledged that he had only one banking account and that he did commingle the water system monies with his plumbing business and his personal business. He stated he read meters in the Oak Haven Subdivision at least once a month himself. He testified that none of the residents of Oak Haven had made any complaints to him about the water system directly. He then stated he had had one or two say that they had air in the line which he said was caused by the sink faucet having an air-flow filter on it about which he could do nothing.

With respect to Crown Point Subdivision, Mr. Caviness testified that he had bought an auxiliary pump and left it in pump house and left the pump house open. After calling an electrician to install the pump, he stated that the pump was missing 40 minutes later. He stated about 40 customers had been added in Crown Point in 1971. He further testified that the taste and smell of water in Crown Point is just typical of all the water in Onslow County and that he had been unable to drink water without its being refrigerated since he has lived there. He stated he had not received complaints from people in Crown Point since 1969 when he bought a tank to use and had it sandblasted and coated

inside. He testified he was operating his water business properly.

He stated he did not know what to do about the smell and taste of the water in Crown Point unless the Health Department advised him what to do. He stated that the people in Crown Point knew that his son, Herbert, lived in Jacksonville and that they could contact him in case of emergency and that he had so instructed them.

He stated that the auxiliary pump which he testified to as having been stolen, would not alleviate the problems in Crown Point unless the other well was operational. He stated the pump he had at Crown Point had burned out once or twice and he did not know what caused it to burn up and that he had rewired the pump. He further indicated that the pump sweats but there was nothing he could do about it. He stated he did not know of anything he could do in Crown Point to stop the discoloration of plumbing fixtures unless the Health Department advises him.

Mr. Caviness said he borrowed $70,000 from the Small Business Administration and that agency had not required him to furnish any evidence regarding disposition of those funds. He stated that the Merchants & Farmers Bank in Raleigh was the bank participating in the Small Business Administration Loan.

Mr. Caviness stated that Mr. Terrell, a plumber, maintained the Crown Point water system and his son went to the subdivision twice a week.

In response to questions on cross-examination, Mr. Caviness testified that he had read the Commission's orders which had been served on him and he thought he understood the requirements contained in the orders. He stated he did not know how much money he had received in tap fees from the developer in the Crown Point Subdivision as of the date of the hearing. He indicated there were 82 homes in Crown Point as of the hearing. He stated he had paid his accountant $300 for his services in 1970. He stated that Mr. Aman prepared his Annual Report and he signed but did not read it.

He testified he was familiar with part of the Commission's Rules and Regulations as they pertain to water utility systems.

He stated he had received approximately $8,000 from the developers in the Oak Haven Subdivision as of the date of the hearing.

With respect to Carter Exhibit No. 2, which is a copy of Mr. Aman's report, Item 3, Mr. Caviness stated he did not know what accounts receivable in the amount of $6,000 relating to Scotsdale Subdivision was for. He stated that

he did not know whether or not he had lost the $10,514 for the year 1970 reflected in Mr. Aman's unaudited report.

He stated that when Mr. Terrell did work in Crown Point he billed Mr. Knight, the developer, and did not bill him. He stated that there would be a final settlement with the developer when the subdivision was completed. He further stated that although the Oak Haven Subdivision was completed there had not been a final settlement with the developers in that subdivision. He stated he did not remember the source of a bank deposit of $3,100 on November 16, 1970.

Mr. Caviness testified he was operating five water systems as of the hearing.

He stated he did not know whether or not he had been making money on his water operations.

With respect to Carter Exhibit No. 1, page 8 of 13, he stated he did not know Ralph Cayce, Preston Graham, Willie McCauley, Bennie Lee Graham, Dennis Lee Hill, although that exhibit, which is a summary of his bank account, indicated that he had paid certain amounts reflected on the exhibit to such individuals. He then stated Willie McCauley ran a backhoe for him in Crown Point. He stated some of the people listed worked for him on his rental property homes. He stated he had about 20 rental properties in Jacksonville that were getting old. He stated he could not tell whether most of the money related to the rental property as opposed to his public utility operations. He stated he did not know what his investment was in Oak Haven and Crown Point separately. He stated he did not have any idea what the systems would be worth if he were selling them as of the date of the hearing.

He stated he prepared and signed Staff Exhibit 5 regarding interruption of service in the Crown Point Subdivision which indicated the water was off for 2 1/2 hours because a pump motor was burned out. He stated that the report indicated that he knew why and how to file it. He stated he was not aware of the 16 interruptions testified to by Mrs. Clark in the Oak Haven Subdivision since June, 1971, until she told him and the Commission. He agreed that the testimony in Jacksonville indicated interruptions exceeding 2 hours had occurred in the Crown Point Subdivision. He stated he had filed the one interruption report because Mr. Nery of the Commission had told him to do so.

With respect to the Oak Haven Subdivision, Mr. Caviness indicated that he had worked on the system since July, 1971, but had not had to shut the water off to do the work.

Mr. Caviness testified that he recalled the February 1968, hearing, in which he obtained the certificate for Crown Point Subdivision and the testimony of Mr. Nery that he needed a second well. He further stated that he had testified that he was planning to put in a second well when

he acquired 50 customers there. He stated that he had not installed the second well because the developer wanted to sell the lot he designated for the well site and wanted to deed him another one, but that such had not been done. Mr. Caviness testified that he recalled the Commission's Order that required him to file a written contract as to maintenance service 15 days from July 21, 1971.

He stated that he checked the tank in Oak Haven enough to think that he would know if it were waterlogged, but that he had never seen it when it was waterlogged.

He stated that when he received a call that something was wrong in Oak Haven, he would drive to Raleigh and that such drive to Raleigh from Jacksonville takes about 2 hours. He stated he did not know how much he took in at Oak Haven Subdivision every month. He stated he had not spent any money for maintenance during October or November, 1971, in Oak Haven.

Mr. Caviness testified that he had not filed a maintenance contract with the Commission regarding Oak Haven.

Mr. Caviness testified that he had hired Robert Graham to do the dynamiting in Oak Haven Subdivision which he had testified to previously. He stated he did not remember how much money he paid him but estimated it was over $7,000. He stated he did not know where Mr. Graham lived and that he had "picked him up on the street in Fayetteville."

He further stated he did not make a record of the cash which he spent.

Mr. Caviness further testified that he had not done anything to straighten up the tank which was leaning because he did not "know the tank is leaning." He stated he had not yet painted the tank an aluminum color because he could not find a day that was dry enough because of rainfall and he planned to get it painted between that time and next year.

At the conclusion of Mr. Caviness' testimony, his counsel requested leave of the Commission to file as a late exhibit the maintenance contract testified to by Mr. Caviness. The Commission voted to disallow the motion. After the waiving of briefs by all parties, the Commission took this matter under advisement.

The records of the Commission pertaining to Docket No. W-201, Sub 6 and the Oak Haven Subdivision reflect, in part, as follows:

DOCKET NO. W-201, SUB 6
OAK HAVEN SUBDIVISION
JUNE 23, 1970 HEARING:

Mr. David Creasy, Commission Utility Engineer, testified with respect to the various certificates held by Mr.

Caviness. His personal investigation of the Oak Haven Subdivision indicated that the water pressure was low from his reading of the pressure gauge on the tank associated with Well No. 1, located in the low part of the Subdivision. Some completed houses were said to be on the top of a hill. He testified that the second well was essentially a temporary installation at that time in that the well was installed but that the pressure tank was small and he estimated that it was approximately several hundred gallons. His investigation was made on June 15, 1970. The second well had a flexible plastic hose serving as a water line of about 1-inch in diameter and not buried, running across the well lot which was apparently serving the new houses under construction. The second well pump was not on at the time he was there. The Gas & Water Division of the Commission received approximately 8 complaints regarding low pressure and water being off completely at times. One complaint related to billing practices. All of these complaints were in Oak Haven. Mr. Caviness' original plans filed with the Commission showed a well capacity of 50 gallons and pump capacity of 40 gallons per minute, relating to Well No. 1. Mr. Creasy stated that this was sufficient to supply the 15 homes in the subdivision at that time. Mr. Creasy testified that if the residents were experiencing low water pressure at that time, either the pump or the well was not producing at the capacity reflected in the filings by Mr. Caviness with the Commission.

Upon questions by the Commission with respect to what ought to be done to bring this system to what it should be, Mr. Creasy testified that he was of the opinion that the second well should be tied into the system as reflected in the plans filed with the Commission as soon as possible if the second well is producing 70 gallons per minute. Secondly, he stated that the second well yield should be verified because initial reports to the Commission on the first well were apparently erroneous and, further, if difficulty was caused by the first well drying up, it could happen with the second well which is only about 500 feet from Well No. 1. He stated an immediate operating second well was necessary because the ultimate Oak Haven development was projected to be approximately 80 to 90 lots and that space was provided for only 2 wells and that if one of the wells was not producing, it would be necessary to determine then to dig a third or fourth well. Mr. Creasy stated that there was not sufficient data in the Commission's files to verify what the well yields actually were, although the data filed reflects what the well yields should be. Mr. Creasy stated that it was his opinion that the first well was going dry because while he was personally inspecting the system, the pump was running and he turned on a sample tap at the well. The water was coming out in spurts and indicated that the system was pumping air which would further indicate that the wells are not producing water as fast as the water is pumped. He stated that 32 homes had been completed and apparently 1/2 of them were occupied. Upon being asked by the Commission, Mr. Creasy

stated that he made no attempt to contact Mr. Caviness regarding his investigation or with respect to complaints.

Mr. William A. Jenkins, President of Oak Haven, Inc., the developer of the Subdivision, testified that he and John O'D Williams are the principals of Oak Haven, Inc. He testified that approximately 100 to 102 lots were proposed for the Subdivision. The Subdivision was divided into three sections. The first section had approximately 31 homes with approximately 5 being occupied at that time; the second section had 32 lots with 16 homes under construction, not completed; and the third section was then being surveyed but was to have approximately 40 lots. There were no houses being constructed in the third section at that time. He further testified that Oak Haven, Inc. had entered into an agreement with W. E. Caviness for the installation and construction of the water system. He stated that Mr. Caviness had installed all of the Section 1 and the majority of Section 2. He stated that he was at the Subdivision site daily and attempted to view the installation of the system. Mr. Jenkins stated he had received complaints from people who lived in Oak Haven regarding low water pressure and no water. He said he had investigated personally those complaints and that the low pressure complaints came from both the high and low elevations of the Subdivision. Mr. Jenkins stated that he had talked with Mr. Caviness about the complaints and that Mr. Caviness was aware of the low pressure and outages. He stated that Mr. Caviness informed him that the second well would be connected shortly. He stated that Caviness had informed him that if he could not locate him, he was to call Hasty Pump Company and they were authorized to make such repairs as Jenkins felt were necessary. He stated he was paying Mr. Caviness $300 a lot to install this system. Mr. Jenkins testified, as the developer, he guaranteed the builder that on-site improvements with respect to the various lots would be furnished including water and streets and that the builder, in turn, would guarantee for one year the homes sold against major defects.

Mr. O. B. Tessenear, Jr., resident, testified that he has lived in Oak Haven about 7 months. Regarding the water service, he stated that there was fairly good pressure in the mornings, but in evenings and on weekends, there was not enough water to cook with or anything else, and that he could not get water in the upstairs portion of his house and that his house was located on the crest of a hill. One morning the water was off around 5:00 A.M. He stated that he called his home 5 hours later and there was still no water.

Mrs. Raymond Clark, resident since June, 1970, testified that there were very few days out of the week that the water pressure was good and that at least one a week, the water was out altogether. She described the pressure problem as being worse in the late afternoon and evening and said that usually in the morning there was enough pressure. She

stated that she had written Mr. Caviness twice in Jacksonville and that she had contacted the developers and the Utilities Commission. The letters were addressed to 118 Poplar Street, which was the address on the bills she received for water service. She stated she had experienced the difficulties outlined since she had moved in and that the problems had been continuous.

Mrs. Norman Paschall, resident since November 2, 1969, stated that there was not enough pressure and that the water was off for periods of as much as 12 hours. In her upstairs bath, there was not water at all in the lavatory or commode, and when flushed, it would take as long as 15 minutes to refill the commode. The water pressure in her kitchen was described as low. She said the washing machine took a long time to fill up. She stated that she wrote Mr. Caviness on May 25 and returned her bill indicating she was not satisfied with the water. Mr. Caviness returned her bill. She further testified that her family was one of the first to move in and that the water service was adequate until the other families began moving in between November and Christmas when the difficulties started to occur. She stated that the residents continue to be without water and have had low pressure for 8 months.

A petition signed by 25 residents of Oak Haven was submitted by the Attorney General's Office.

Mr. W. E. Caviness stated, concerning the complaints testified to by the residents, that the difficulties in most cases had been caused by broken lines. He further testified that the gas company broke the water lines 2 or 3 times and that the telephone company had broken them. He stated that he could tap onto additional homes without cutting off the whole system and that he had never cut off the water himself to make an individual single residence house tap. He stated that he had cut the water off to put in pressure valves on at least one occasion for about 3 hours. With respect to the low pressure and what he proposed to do about it, Mr. Caviness testified that the Bailey Well Company had given him assurance of getting 50 gallons of water per minute and that the well did yield that for several months, but that "after a while, something happened to the well." He checked the pump to see if it was all right and found that it was. He stated that he was in the process of putting in a new well and had an order in for a tank for several months. It was delivered on June 19, 1970, and that the new tank would be connected and the problem solved in about 2 more days. The new tank was described to be 10,000 gallons. He stated that the tank at Well No. 1 was a 3,000 gallon tank and that Well No. 2 was connected temporarily with the 1-inch hose pipe running to meter connections. He stated that the State Board of Health had not approved the 10,000 gallon tank on Well No. 2 and that the pressure on the new tank should range from 40 to 60 psi.

Mr. Caviness testified that he had resources available to him and the financial ability to do whatever is necessary to get the water pressure up to the proper pressure and that he was prepared to do that.

Mr. Caviness stated that his wife assisted him in the utility operations, that he had 4 employees in addition to himself and his wife, one in Fayetteville and the others in Jacksonville. He testified that although he had incorporated his operations, he did not apply as a corporation for any of the seven water systems, that all seven systems were owned individually. When asked his reasons for not answering customer letters and complaints or responding to Commission inquiries, Mr. Caviness responded that he had "no particular reason; I just don't write very much." He described his employees as laborers who do just whatever comes to hand on the job and that the operator of a backhoe had been hired that morning by him and that he did not know what his name was.

Mr. Caviness stated that he spent 4 days a week in Wake County personally and that he was unable to correct the problems testified to regarding low pressure and low water because he just got delivery of the tank on June 19.

The proceeding was held open until the Commission's Engineering Staff could check the tank testified to by Mr. Caviness and check with the customers on their service after the new tank was made operational before the record would be closed.

JULY 9, 1970 HEARING:

The Show Cause hearing was resumed for the purpose of receiving further evidence on adequacy of water service by Respondent Caviness in Oak Haven, including his efforts subsequent to the June 23, 1970 hearing. The Order provided, among other things, that Respondent Caviness file a written agreement with any agent to whom the Respondent had delegated the provision of maintenance service as referred to in his testimony on June 23, 1970.

Mr. R. J. Nery, Chief, Gas & Water Engineering Division of the Commission, testified that he made a personal investigation of the Oak Haven Subdivision on two occasions since the hearing on June 23, 1970. He stated after that hearing the Commission Staff had received complaints concerning muddy water on or about June 30, 1970, and that the water pressure was low and that on or about July 1, 1970, the customers indicated that they had no water at all. He stated that muddy water in the line obviously came from the laying of approximately 90 joints of pipe and the failure to flush out properly such pipe.

Mr. Nery tested Well No. 1 and determined that air was being pumped into the hydropneumatic tank. He testified that a test of Well No. 1 indicated it was pumping

approximately 6 to 7 gallons per minute with some air in it. A pressure check at one of the houses on the high elevation at about 3:00 P.M. on July 8, 1971, resulted in an indication of approximately 43 pounds of pressure from an outside spigot.

Mr. Nery testified concerning a 24-hour test by Hasty Pump Sales & Service indicating the well yield of Well No. 2 for a 24-hour period was 24 gallons per minute. The test indicated the water level in the well was 145 feet deep. The test was dated July 9, 1970. At the beginning of the drawdown test made by Hasty Pump, the well yield was 63 gallons per minute. At the end of 24 hours, the well yield decreased to 24 gallons per minute.

Mr. Nery testified that the Staff had made checks on the pressure as of July 8, 1970, and that it was determined that the range was 40 to 45 pounds per square inch. With regard to the recent installation, Mr. Nery testified that it was made under "pretty rough circumstances and by that I mean" that the "road drainers were tearing up and down the road. It would have been difficult to construct much out there, even now, with all the traffic moving in on those dirt roads."

Upon questions by the Commission, Mr. Nery testified regarding what should be done to bring about adequate and efficient service. He stated that if the proposed 40,000 gallon storage tank were installed (which he indicated was his understanding that would be installed by Mr. Caviness and the developer) and that if Well No. 1 was redrilled and sufficient supply of water was available, that adequate water service would be available. He further stated that the residents "need to have somebody who is trained and can go out there and service the facilities in the event Caviness is not in town or cannot service it himself." Mr. Nery referred to a letter dated July 9, 1970, which indicated that Hasty Pump Sales & Service would service the system in Oak Haven in order to maintain 24-hour service. The letter was signed by William J. Timberlake, but not signed by Mr. Caviness.

Mr. William Jenkins testified that the FHA and VA had stopped the developers from starting any new houses until the Utilities Commission rules the water service to be adequate. He testified that in regard to the original contract with Mr. Caviness the developers approached Mr. Caviness and reminded him of the contract that is on record with the Commission in which he stated that if he did not render proper service, everything would be returned to Oak Haven, Inc. By letter dated July 8, 1970, deeds to the well site and assignment of Mr. Caviness' franchise were submitted to be held "special trust" as set forth in the letter. In the letter, Mr. Caviness authorized the Trustee, William Merriman, to whom the letter is directed, to hand the deed and assignment over to the developers in the event that he is called before the Utilities Commission for show

cause hearing on the Oak Haven franchise or if the VA or FHA notified owners that they were terminating participation in loans because of inadequacies in the water system.

Mr. John Pem Lewis testified that he lived in Oak Haven Subdivision since December 1969, and that he is a general contractor and has built houses in Oak Haven. He testified that since June 23, 1970, to his knowledge, the water was off one or two days. He stated that the pressure was adequate but indicated that there was some air in the pipes.

Mr. John O'D Williams testified that as of that date there were 29 families living in the development and that Oak Haven, Inc. proposed to build 106 houses in the development. Mr. Williams testified that it was difficult to contact Mr. Caviness and that upon receiving complaints, he would call his home in Jacksonville and he might be in another town by the time word reached him and a day might have elapsed. He said that when problems occurred with the water system, they had to be corrected immediately and the developers could not wait a day or two.

Mr. O. B. Tessenear, Jr. testified that his water bill was $11 and $12 a month and has gone up to $16.50, and that, in his opinion, such bills were high inasmuch as the water was out. He testified that the water was off on July 1, 1970. He further testified that the water pressure on July 8, 1970, was adequate. He objected to paying the metered rate when others were paying $4.50 flat rate in the same subdivision.

Mrs. Raymond Clark agreed with the testimony of Mr. Tessenear. She testified that the water was off on Friday of the previous week. She testified that occasionally she noticed air was in the lines when she cut her spigot on.

Mr. W. E. Caviness testified that he had agreement with Hasty Pump Sales & Service to handle service problems on a 24-hour basis, and that Hasty had been handling service calls for him for the past 3 years in other subdivisions. Mr. Caviness testified that in addition to Hasty, he had employed D. Carroll Smith to move to Raleigh as soon as he could get a house and he would have equipment and necessary tools to do whatever repair work would be necessary in Oak Haven, and that he would have a telephone so that he could be reached 24 hours a day. Mr. Caviness stated that he had experience in plumbing and repairs of water lines. He stated as of the date of the hearing, there were 14 non-metered customers and that all meters should be installed within a week. At the Commission's suggestion, Mr. Burns was to draft a notice to the customers to call Hasty Pump in the event of complaints. The hearing was held open.

MAY 5, 1971 HEARING:

This show cause hearing involved the Commission's Order of September 25, 1970, requiring, among other things,

installation of a 20,000 gallon ground storage tank with transfer pump of suitable capacity and filing of a formal maintenance contract.

Mr. David Creasy, Commission Utilities Engineer, testified that the Staff had recommended installation of a 20,000 gallon ground storage tank because its investigation revealed that Oak Haven "had outgrown the capacity of the water system" and to allow for future growth of the subdivision. The recommendation resulted from the Staff's determination that the problems of inadequate water supply and pressure resulted from the design of the system. The recommended storage tank was to alleviate problems during periods of peak flow in the subdivision.

Mr. Creasy testified that his personal investigation revealed that Mr. Caviness did not have the 20,000 gallon tank installed within 30 days of the Commission's Order of September 25, 1970.

Mr. Creasy testified that as of the May 5, 1971 hearing, the tank had been installed but that the booster pump was not installed. He stated that the tank was not properly in operation and that, for example, in his latest investigation (May 3, 1971) the tank was overflowing because the well was pumping water in the system and the automatic switch on the pump did not work.

He stated his investigation revealed complaints concerning lack of water and inadequate water pressure and that he had attributed the recent complaints to the storage tank not being in operation properly. He checked the transfer pump and determined that it was disconnected. The motor was in one position and the pump in another position with no connection between them. The pump in the well was being operated manually and not automatically.

Mr. Creasy testified that as of May 5, 1971 (he made an inspection prior to the hearing that morning), operating pressures were too low and the system was not operating satisfactorily. He stated that his personal investigation the week before the hearing indicated a wide variation in water pressure in the system. Mr. Creasy placed a recording gauge on Mrs. Clark's house near the crest of the hill. It recorded pressure variation for one week and the pressure ranged from 15 to 40 psi. He said 15 psi was, in his opinion, too low to be satisfactory. The operating pressures at the wells are set somewhere between 40 and 60 and in the opinion of Mr. Creasy, adequate pressure at a residence should be at least 30 psi. He stated that the water main sizes were adequate and that he had determined no other reason for the inadequate water pressure and the lack of water except the failure of the 20,000 gallon storage tank to be installed properly.

Mr. Louis Kempf testified that the residents of Oak Haven had been without water for the last year and a half for many

days and that on May 1, 1971, the water pressure was insufficient to operate a lawn sprinkler. He also stated that recently (Friday preceding the hearing) the water was muddy but he did not report the muddy water to Hasty Pump or to Caviness.

Mr. Thomas A. Schley testified that he has been a resident of Oak Haven since January, 1970, and that he had tried to take a shower several times but could not get a drop of water out of the shower into the bathtub on the upstairs portion of his split-level home. He had to go to bed without a shower 20 to 30 times. He also testified about muddy water since April, 1971. He stated that he had called Hasty Pump twice that he knew of about the pressure problems but could get no definite statement about what would be done and when it would be done.

Mr. O. B. Tessenear, Jr. testified concerning certain outages.

Mrs. Raymond Clark stated the same problems continued with low water pressure and no water since the last hearing. She called Hasty Pump and on some occasions when there was no water, Hasty Pump would fix it within reasonable times. On other occasions, she stated they indicated they had no authority to do electrical work on the tank. She stated that on occasions she had to go somewhere else to get water in bottles and bring home to drink, and that even with a filter on the washing machine, there were lumps of clay or some type of residue in the clothing.

Mr. Howard Ellis testified that he has lived in Oak Haven since June, 1970, and that he is employed by the North Carolina State Board of Health as Assistant Planning Officer, and has served as a bacteriologist. He said he was concerned that the monthly water samples were not being submitted for Oak Haven.

Mrs. Delores Schley, Mr. Will B. Thompson, Mrs. Patricia Muraglia and Mrs. Betty Kempf were tendered for cross-examination as testifying to essentially the same as the other witnesses.

Mr. William J. Timberlake, owner of Hasty Pump Sales & Service, testified that he had entered a contract with Caviness for Oak Haven and Royal Acres Subdivisions sometime last summer and that he was looking to the developers of Oak Haven, Oak Haven, Inc., for the money and that the contract concerned the "existing equipment." He stated that he responded to each call received from residents in Oak Haven and that if it was determined that some portion of the system did not exist, such as the storage tank which was put in, that he would not do anything in keeping to what he understood the agreement to be. He said if it involved a lot of work, he might call Caviness who would tell him that he would take care of it himself and thereafter, he would forget it until he received another complaint. He stated

that there was no subsequent agreement other than the one page letter dated July 9, 1970. The letter stated "Hasty Pump Sales & Service will service the water system in Oak Haven anytime, day or night, in an effort to keep an accurate water supply with the existing pumping equipment. In order to maintain a 24-hour service, after 4:30 week days, weekends and Holidays will be time and a half. Payment on all accounts is expected on or before the 10th of each month." He stated that he billed Oak Haven, Inc. with duplicate copies sent to Mr. Caviness, and that he had not received a commitment from Mr. Caviness to pay anything for work performed under the contract, and that he did not have a letter from Mr. Caviness indicating that he had accepted the offer.

He stated that the automatic switch on the storage tank was not properly installed. He indicated he knew of complaints regarding muddy water and that he had not been told to fix it, and that he is willing to do anything the developers authorized him to do to assist them. He stated that if authorized to do so, he would take the 20,000 gallon tank, set it up straight, put a good platform for it to sit on and a booster pump that would do 80 gallons a minute. He stated that inadequate pressure and low water was caused by an unusual amount of rock in the development and due to the 10,000 gallon tank which had fallen because its footings collapsed and said a different booster pump was needed at the 20,000 gallon tank.

He stated that a 20,000 gallon storage tank with a proper booster pump would solve a great deal of the problems that relate to the inadequacy of pressure and outages. He estimated that since he had signed the contract in July of 1970, the developers had paid him between $1000 and $1500. He stated he didn't discuss what the system needed with Mr. Caviness.

Mr. W. E. Caviness testified that he had installed the 20,000 gallon storage tank on April 19, 1971. He stated he ordered a booster pump from California and sent a certified check for $545 and that it had not yet arrived. He was using a temporary booster pump as of the date of that hearing. He stated he contacted an electrician by utilizing the phone book and he did not know the electrician he hired was not capable of wiring the pump.

He testified that on Monday of that week the tank was not properly operating and that it was not doing so because the switch had not been properly installed by the electrician. He stated that the booster pump was doing the job but was not the one he intended to put on. Mr. Caviness indicated he entered subsequent contract with Hasty Pump dated September 30 for Oak Haven and Royal Acres and had mailed signed copies to the Utilities Commission. He stated he had received notice from Mr. Williams that he intended to take over the water system and operate it himself. He stated he

ordered the booster pump September 19, 1970, from Berkley Pump Company of California.

He testified that Mr. Williams was in the process of taking over the system, that papers had been signed, the deeds to the well lots were signed, but as of the date of the hearing, he still owned the system. The temporary pump which he obtained for the system was acquired from Longley Supply Company, a local firm in Jacksonville, North Carolina. He related that it took about 10 days to get the tank from that firm. Mr. Caviness testified he did not know what made the water muddy.

JUNE 21, 1971 HEARING:

Mr. Ralph Griffin, Commission Utilities Engineer, stated that he conducted a personal investigation on June 16, 1971, to determine the extent of compliance of the Commission's Order of May 20, 1971. He took several photos of the 20,000 gallon tank located on Well Site No. 1. He determined that the 5 hp peerless pump had been installed with a proper automatic control. The tank was functioning properly except that hydropneumatic tank was waterlogged, i. e., there was insufficient air in the tank which would result in an unusually short operation cycle on the transfer pump.

The pressure tank was determined by him to be operating between 40 and 60 psi. There was no air compressor to pump air into the tank which would keep it from getting waterlogged. The foundation of the 20,000 gallon tank was described as being crushed rock and not a cement foundation. He stated that the tank appeared to be slightly tilted. He stated that 40 pounds pressure at the homes was adequate in his opinion. He stated that in order to put a concrete slab under the 20,000 gallon tank, it would be necessary to cut the water off and drain the tank, and if the tank continued tilting with an insecure foundation, he would not want to take the chance of its falling over prior to the winter. He stated that winter was usually better than summer because of peak demands to make such a change in a tank's foundation. He stated that the switch boxes were located 4 feet from the ground and might easily be reached by small children. He observed a loud clanging noise when the pressure tank check-valve was in operation and the noise reoccurred about every 3 minutes.

Mr. David Creasy, Commission Utilities Engineer, testified that he made a personal investigation of Oak Haven in October, 1970, with respect to compliance with the September 25, 1970, Order, and the 20,000 gallon storage tank was not on the premises. On November 5, 1970, he wrote a letter to Mr. Caviness regarding compliance with that Order and requested that he submit the contracts referred to in that Order and that he notify the Commission Staff when he expected to complete the improvements. Mr. Creasy inspected the site on May 19, 1971 and on May 25, 1971, observed that a new booster pump had been installed. Some of the

electrical conduit still needed to be installed around the wiring. There were still indications of slow leaks in the water main. He made another site investigation on June 11, 1971.

Since September 25, 1970, Mr. Creasy testified that the Staff had received reports of interruptions of service and low pressure. He stated that once the tank was finally installed there was a long period of time between the Order and when complaints began to come in again concerning the lack of water and low pressure. After the tank was installed, the Staff received complaints about muddy water and air in the mains. Mr. Creasy stated that the muddy water was probably due to a faulty check-valve.

Mr. Creasy stated that he was of the opinion that once the tank was installed and the booster pump was installed and operating properly, there should not be any more problems relating to low pressure or lack of water unless there were some other malfunction of the system.

Mr. Creasy made a personal investigation on June 21, 1971, the day of the hearing. He observed the 20,000 gallon tank and stated that it should have been installed on a solid permanent foundation and that it was then leaning. He recommended that a new concrete foundation be installed and stated that in the absence of such foundation, the tank might fall over.

He determined that there was evidence of a leak that should be corrected where the water main leaves the tank at Well No. 2 and comes down into the ground. He testified that the foundation problem with the tank could be corrected in a matter of 2 weeks, that a foundation could be poured beside the tank without shutting off the system, and a crane could be used to reinstall the tank. He stated that the booster pump could cause injury to children and that a pump house was needed to protect persons and prevent vandalism. He testified that he observed a temporary service line. Mr. Creasy said he was also familiar with the loud clanging noise that occurred from the operation of the check-valve at the pressure tank at Well No. 1.

Mr. Creasy stated that there had been definite improvement in the water service as far as the water pressure and amount of water. There had been a definite improvement in the fact that the people have someone to call when there is a problem due to the fact that the local firm has responded to the calls. He stated that complaints were received from time to time and that while improvements had been made, he was of the opinion that substantial improvements remained which needed correction.

He stated that in his opinion Mr. Caviness had not made a good faith effort to correct the deficiencies in the system that had been pointed out to him. When asked if Caviness had the capability to do the job he had been certificated to

do, he stated that in his opinion, Mr. Caviness was in over his head in his public utility operations. Mr. Creasy stated that the system was not built properly and constructed properly but it was running properly on that date. If the tank fell over, the residents would not have adequate water. He stated that he did not think Caviness was qualified to properly continue the operation of the system. Mr. Creasy stated he is a civil engineer, graduate of VPI and a professional engineer licensed to practice in North Carolina, a member of the American Society of Civil Engineers, and has approximately 11 years experience in engineering work, including 4 years in sewer and water work.

Mr. William A. Jenkins testified that he did not know who owned Well Site No. 1 and that the deed to the other well site was in his desk and had been written conveying the lot from Oak Haven, Inc. to W. E. Caviness, but to his knowledge, it had never been recorded.

Mr. Jenkins stated as of April, 1971, he had paid approximately $24,135 to various companies for supplies and maintenance for the system, that he had paid Mr. Caviness on the basis of $300 a lot approximately $8,933. Mr. Jenkins stated that the equipment for the well lots did not belong to Oak Haven, Inc. He said in his opinion Mr. Caviness had substantially failed to perform under his agreement with Oak Haven, Inc. and that Oak Haven, Inc. had communicated problems to him and had given him a fair opportunity to correct the deficiencies. Mr. Jenkins said he had interpreted the Commission's Order of May 20, 1971, as placing ownership in the water system in Oak Haven, Inc., that he had told Mr. Caviness to quit working on the system recently. He did not collect any revenue. He stated that the builders to whom he had sold some of the lots could not close their loans with the FHA and VA as the result of water service in Oak Haven.

Mr. W. E. Caviness testified that he owned the water system in Oak Haven. He estimated that he had invested around $33,000 for the equipment without consideration of his labor which he would estimate to be around $3,000 per year. He stated that the $20,000 figure Mr. Jenkins testified to was included in that estimate. He stated that somewhat over $10,000 resulted from the necessity of using dynamite because of rock. He hired someone to do the dynamiting who charged $20 an hour when he was in the process of laying the main pipelines prior to construction of any houses. Mr. Caviness stated that there were some exposed water mains on New Hope Road and Willow Oak Road.

Mr. Caviness stated he was not willing to surrender his interest in the property to the property owners of Oak Haven if they would relieve him of all his responsibilities, and further, that he was ready, willing and able, financially and otherwise, to provide the residents of Oak Haven with clean, pure water continuously. He stated he was able to pay his debts as they occurred. He stated he had 4

permanent employees - his son, Herbert Caviness, and he could not think of the names of the other three. He stated that he does not maintain an office in Wake County and does not have a telephone.

Thirty-eight residents of Oak Haven were in attendance and counsel representing the residents offered affidavits of 40 persons.

Mr. Louis Kempf testified that he had personal knowledge that connections were made to the water system since May 20, 1971, and cited certain lot and block numbers. He stated certain of the water mains were exposed and testified about the previously mentioned clanging noise. He stated that the property owners in Oak Haven had organized themselves in order to take over the water system and that he was elected President of the Association. He stated the residents wanted to pay $1 for the system.

Mr. R. B. Tomlinson testified that a lateral line had been tapped onto the main line while he was on vacation.

Based upon the record of these show cause proceedings, including the records of the Commission in Docket No. W-201, Sub 6, and W-201, Subs 1 and 4, the Commission makes the following

FINDINGS OF FACT

(1) Respondent W. E. Caviness, t/a Touch and Flow Water Systems, is an individual engaged in the operation of public water utilities and has been issued franchises for the operation of water systems in Oak Haven, Royal Acres, and Colonial Heights (Meadowbrook Drive) Subdivisions located in Wake County, North Carolina, and in Scotsdale Subdivision located in Cumberland County, and Crown Point Subdivision located in Onslow County. In Docket No. W-201, Sub 8, the Respondent has applied for franchises in Wrightsboro Subdivision, Hoke County, and the Colonial Heights Subdivision (Malibu Drive) in Wake County. The Subdivisions directly involved in these show cause proceedings are Oak Haven Subdivision in Wake County and Crown Point Subdivision in Onslow County.

(2) The water service provided by W. E. Caviness, t/a Touch and Flow Water Systems, in Oak Haven Subdivision, Wake County, and Crown Point Subdivision, Onslow County, North Carolina, has been and continues to be inadequate and inefficient in violation of G.S. 62-131(b). The Commission finds that such inadequacy and inefficiency of service has been and continues to be due to inadequate construction practices and inadequate operation and maintenance practices. The Commission has required that certain improvements be made in the water supply facilities only to discover additional deficiencies in the design and workmanship of some of the improvements made. Additional deficiencies in the respective water systems are continually

being discovered and the lack of a maintenance contract between W. E. Caviness and some reliable service firm approved by the Commission has resulted in many of the deficiencies in the water system which have occurred due to faulty design or construction being compounded by further difficulties of inadequate operational and maintenance practices.

(3) Respondent Caviness is not fit, willing, and able, financially or otherwise, to continue as the certificated holder of the franchises in Oak Haven and Crown Point Subdivisions. Respondent has willfully, or in some cases negligently, failed to comply with the provisions of Chapter 62 of the North Carolina General Statutes and with lawful orders and Rules and Regulations of the Commission, and with the terms and conditions and responsibilities under his franchises as a public water utility.

(4) With respect to the Oak Haven Subdivision, Respondent Caviness has willfully, or in some cases negligently, violated and failed to comply with Rules R7-7(a) (Adequacy of Facilities), R7-8(Service Interruptions), R7-12(Quality of Water), R7-13(Pressure Requirements), R7-20(Utility's Discontinuance of Service), and R12-8(Discontinuance of service for nonpayment) of the Commission's Rules and Regulations.

(5) With respect to the Crown Point Subdivision, Respondent Caviness has willfully, or in some cases negligently, violated and failed to comply with Rules R7-7(a)(Adequacy of Facilities), R7-8(Service Interruptions), R7-12(Quality of Water), and R7-13(Pressure Requirements) of the Commission's Rules and Regulations.

(6) Respondent Caviness willfully violated and failed to comply with the Commission's Order dated September 25, 1970, in that the Respondent did not cause to be installed in the Oak Haven Subdivision water system a ground storage tank having a storage capacity of not less than 20,000 gallons with a transfer pump of suitable capacity and to cause said storage tank and pump to be made operational within 30 days from the date of said Order. The Respondent further violated said Order by failing to file with the Commission, not later than October 5, 1970, a copy of a written contract with Hasty Pump Sales and Service, Raleigh, North Carolina, or any other reliable service firm in the Wake County area, to provide maintenance service on a 24-hour per day, 7-days per week basis, with respect to the water system in Oak Haven Subdivision, which said contract was to clearly indicate that Hasty Pump Sales and Service or such other reliable service firm as designated by the Respondent would provide any maintenance service needed with respect to the water system in Oak Haven Subdivision. The installation of the aforementioned storage tank in April, 1971, was done in an inadequate and inefficient manner.

(7) Since March, 1970, the Commission has continuously received from various property owners and residents of the Oak Haven Subdivision complaints concerning lack of water, low water pressure, and other deficiencies in the water system owned and operated by Respondent Caviness.

(8) Respondent Caviness willfully violated and failed to comply with the Commission's Order of July 21, 1971, in that the Respondent failed to reinstall on a proper base the storage tank located at Well Site No. 1 in a properly aligned position and failed to paint said tank an aluminum color matching the pressure tank on said site. Respondent Caviness further violated said Order by failing to enclose the pumps located on both well sites in waterproof and tamperproof pump houses. Respondent Caviness further violated said Order by failing to place the electrical wiring, switches and switch boxes at both well sites in weatherproof and tamperproof enclosures and encasing all wiring above ground and below ground in watertight conduits. Respondent Caviness further violated said Order by failing to arrange periodically to service the pressure tank on both well sites so as to prevent their becoming waterlogged. The records of the Commission reflect that the Respondent willfully failed in compliance with said Order to file a written contractual arrangement with a qualified service representative acceptable to the Commission in order to provide continuing maintenance service on an adequate basis, submitting along with said contract the qualifications of such representative, which were to be filed no later than 15 days from the Commission's Order dated July 21, 1971. Respondent Caviness further violated said Order by failing to make all charges for water service in Oak Haven Subdivision on a metered basis from and after July 21, 1971.

(9) While the Respondent is not required by Rule R7-35, to maintain a uniform system of accounts, the record demonstrates that Respondent Caviness' bookkeeping procedures both with respect to the finances of his utility operations and with respect to records regarding service interruptions and other usual maintenance records, are inadequate and inefficient. As a result of Respondent's inadequate and inefficient bookkeeping procedures, particularly with respect to the absence of cash receipts and disbursement journals and ledgers, the Commission cannot make any determination with confidence regarding the nature or condition of his public utility finances. The fact that Respondent Caviness mingles his personal business in his bank account with his water utility operation, and further mingles his rental property therein, results in Respondent Caviness himself being unable to state under oath whether or not he has sufficient financial resources available to him to undertake to correct the specific deficiencies which have been the subject of prior Commission Orders. While Respondent Caviness would not seem to be insolvent, there does appear to be a substantial probability that he does not have sufficient financial means to continue to operate the water utility systems in Oak Haven and Crown Point

Subdivisions. The unaudited report of Mr. Aman, Certified Public Accountant, reflects a net loss of $10,514.55 for the year ending December 31, 1970.

(10) Respondent Caviness has willfully failed to provide the Oak Haven Subdivision with producing equipment sufficiently adequate to meet all normal as well as reasonable emergency demands for service and has failed to maintain adequate pressure with regard to such distribution system. Since March, 1970, the water pressure in Oak Haven has been and continues to be inadequate on numerous occasions and the system has been characterized by complete outages on numerous occasions.

(11) Respondent Caviness has failed to comply with the rules of the State Board of Health governing purity of water and Rule R7-12 of the Commission's Rules and Regulations.

(12) Respondent Caviness has discontinued service to customers for non-payment of bills without first having diligently tried to induce the customers to pay same and has discontinued service without a 5-day written notice.

(13) Respondent Caviness has failed to provide the Crown Point Subdivision with producing equipment sufficiently adequate to meet all normal as well as all reasonable emergency demands for service, and has failed to maintain adequate pressure with regard to such distribution system.

(14) Respondent Caviness in regard to Crown Point Subdivision has failed to comply with the rules of the State Board of Health governing purity of water. This record reflects that the State Board of Health withdrew its approval of the water system in Crown Point on December 9, 1969, and has not reinstated such approval.

(15) With respect to the Crown Point Subdivision, Respondent Caviness has further failed to provide continuous chlorination of the water supply to control and mitigate the sulfide taste and odor.

(16) Respondent Caviness has, with respect to the Oak Haven and Crown Point Subdivisions, failed to be available or have a qualified representative available for maintenance service on a reasonably continual basis so that when the residents of the subdivisions encountered difficulties, a reasonable response to the complaints of the residents could be obtained.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

The Commission concludes that the water utility service provided by W. E. Caviness, t/a Touch and Flow Water Systems, is not adequate and efficient in either Oak Haven

or Crown Point Subdivisions. The Commission further concludes that Respondent Caviness is not fit, willing, and able, financially or otherwise, to continue with the operations of the water utility systems in either Oak Haven or Crown Point Subdivisions.

The most fundamental responsibility of a public water utility is to furnish adequate and efficient service. This record is replete with indications of Respondent Caviness' unwillingness and inability to fulfill that responsibility. Pursuant to the legislative mandate to this Commission, the Commission has on numerous occasions for somewhat in excess of 18 months regarding Oak Haven and also with respect to Crown Point attempted to compel adequate and efficient service by the Respondent by requiring specific corrective measures to be taken only to discover that the Respondent is either incapable or unwilling to fulfill his responsibilities as a public utility and comply with lawful Orders of the Commission and with Commission Rules and Regulations. The Commission has required improvements to be made in certain of the Respondent's water supply facilities only to discover additional deficiencies in design or workmanship of some of the improvements made. The Commission has also observed that additional deficiencies are continually being discovered.

One of the more significant failures of the Respondent is his unwillingness to furnish to the Commission, and his failure to so furnish, a written maintenance contract with a reliable service firm approved by the Commission for 24-hour per day, 7-days per week maintenance service.

The Respondent has indicated an unwillingness to cooperate not only with the Commission but with other regulatory agencies and with the customers to whom his ultimate responsibility lies.

The record indicates and is supported by Mr. Caviness' testimony that he is attempting to operate five certificated public utility water systems (and two for which he has not obtained Certificates) virtually by himself with the limited help of his wife and his sons, one of whom works at another job on a regular basis. Respondent Caviness obtained his first Certificate for a public water utility operation in 1964 in the Scotsdale Subdivision in Cumberland County. He holds Certificates in addition to Crown Point and Oak Haven in Colonial Heights (Meadowbrook Drive) and Royal Acres, located in Wake County. He does not hold Certificates but has applied for Certificates to operate public utility water systems in Colonial Heights (Malibu Drive) located in Wake County, and Wrightsboro Subdivision located in Hoke County. It is readily apparent that Respondent Caviness has extended his water utility operations from Cumberland County to Onslow, Wake and Hoke Counties. In that regard, he still has virtually the same business arrangement he had when he obtained his first Certificate in 1964 in that he, his wife and sons supply whatever resources are available in the

maintenance and operation of such systems. While he has no other regular employees, Respondent Caviness has on occasions hired itinerant or part-time labor in order to maintain and operate his water systems. The only systems which are the subjects of this show cause proceedings are Oak Haven and Crown Point Subdivisions. Consideration of Mr. Caviness' overall utility operations, however, becomes imperative in viewing his overall fitness and capability to provide adequate and efficient water service in Oak Haven and Crown Point Subdivisions.

Reduction of the rates for water utility service in Oak Haven and Crown Point by the Commission under its Order of October 12, 1971, would not provide a reasonable solution to the difficulties reflected on this record. Indeed, such would compound Respondent's apparent financial difficulties further.

Application by the Commission to the Superior Court of Wake County to impose a penalty of up to $1,000 per day each day the Respondent fails to comply with the Commission Orders and its Rules and Regulations under G.S. 62-310 would likewise not be a reasonable solution to the difficulties reflected herein.

The Commission concludes that the only course available to the Commission to insure adequate and efficient water service in Oak Haven and Crown Point Subdivision is the revocation of the franchises held by Respondent Caviness. Accordingly, the Commission concludes that Respondent Caviness should be allowed 60 days from the date of service of this Order within which time to convey and dispose of his franchises in Oak Haven and Crown Point Subdivisions to a party or parties who will apply to the Commission for approval of their qualifications in regard to a franchise for the purpose of continuing the water utility operations in Oak Haven and Crown Point Subdivisions.

In the event Respondent Caviness has not disposed of his franchises in Oak Haven and Crown Point within 60 days from the date of this Order, the Commission concludes that it should direct its Office of General Counsel to apply to the Superior Court of Wake County for the appointment of a temporary operating receiver or trustee with full and complete operating authority to continue the water utility operations in Crown Point and Oak Haven Subdivisions until such time as a willing buyer can be found. Accordingly,

IT IS, THEREFORE, ORDERED as follows:

(1) That the franchises for public water utility operations in Oak Haven Subdivision, Wake County, and Crown Point Subdivision, Onslow County, North Carolina, held by Respondent W. E. Caviness, t/a Touch and Flow Water Systems, are herewith revoked and cancelled sixty (60) days from the service of this Order subject only to any pending

application for transfer of such franchises in accordance with this Order.

(2) That Respondent W. E. Caviness, t/a Touch and Flow Water Systems, is herewith allowed sixty (60) days from the date of service of this Order within which time to enter into a binding contract to convey and dispose of his water utility franchises in Oak Haven and Crown Point Subdivisions, and Respondent shall file appropriate application with the Commission within such time for transfer of such franchises. In the event the Respondent files application for transfer within sixty (60) days, the respective franchises shall remain in full force and effect until disposition of such application by the Commission.

(3) That in the event Respondent W. E. Caviness has not conveyed or disposed of his franchises and filed appropriate application for transfer in accordance with this Order, the Commission herewith directs the Office of General Counsel to file in the Superior Court of Wake County such appropriate legal proceedings as may be necessary to obtain the appointment of temporary operating receiver or trustee with full and complete authority to operate the water systems in Oak Haven and Crown Point Subdivisions until such time as a willing buyer can be found.

ISSUED BY ORDER OF THE COMMISSION.
This 13th day of January, 1972.

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

DOCKET NO. W-256, SUB 4

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application by Urban Water Company, Route 4, Newton, North Carolina, for a Certificate of Public Convenience and Necessity to Provide Water Utility Service in Homestead Park Subdivision, Catawba County, North Carolina, and for Approval of Rates	) RECOMMENDED ORDER GRANTING FRANCHISE AND APPROVING RATES

HEARD IN: Commission Hearing Room, Ruffin Building, 1 West Morgan Street, Raleigh, North Carolina, on November 22, 1972, at 2:00 P.M.

BEFORE: Hearing Commissioner Marvin R. Wooten

APPEARANCES:

For the Applicant:

Jesse C. Sigmon, Jr.
Sigmon & Sigmon
Attorneys at Law
P. O. Box 88, Newton, North Carolina

For the Commission Staff:

Maurice W. Horne
Assistant Commission Attorney
P. O. Box 991, Raleigh, North Carolina

WOOTEN, HEARING COMMISSIONER: On September 8, 1972 the Applicant, Urban Water Company, Inc., filed an application with the North Carolina Utilities Commission for a Certificate of Public Convenience and Necessity to provide water utility service in Homestead Park Subdivision, Catawba County, North Carolina, and for approval of rates.

By Order issued on September 25, 1972, the Commission scheduled the application for public hearing, and required that Public Notice of the hearing be given by the Applicant. Public Notice was published in The Observer-News-Enterprise, Newton, North Carolina, advising that anyone desiring to intervene or to protest the application was required to file their intervention or their protest with the Commission by the date specified in the Notice. No interventions or protests were received by the Commission.

The public hearing was held at the time and place specified in the Commission's Order. Mr. Albert E. Long, President of Urban Water Company, Inc., appeared at the hearing as a witness for the Applicant and presented testimony in support of the application. No one appeared to present testimony protesting the application.

Based on the information contained in the application and in the Commission's files and in the records of this proceeding, the Commission now makes the following:

FINDINGS OF FACT

1. The Applicant, Urban Water Company, Inc., is a corporation duly organized under the laws of the State of North Carolina, and is authorized under its Articles of Incorporation to engage in the operation of public utilities, as defined in G.S. 62-3.

2. The Applicant proposes to furnish water utility service in Homestead Park Subdivision, Catawba County, North Carolina, and has filed a Schedule of Rates for said service.

3. Homestead Park Subdivision is a residential subdivision consisting of approximately 5 streets and approximately 54 lots. The subdivision is located on County Road 1512, known as St. Lukes Church Road, in Catawba County.

4. The Applicant proposes to initially install water mains capable of serving approximately 54 customers in the subdivision. The Applicant proposes to meter the water service at a future date, and to charge a flat rate until meters are installed for all customers.

5. The Applicant has entered into agreements securing ownership or control of the water systems and of the sites for the wells.

6. There will be an established market for water utility service in the subdivision, and such services are not now proposed for the subdivision by any other public utility, municipality, or membership association. There is a reasonable prospect for growth in demand for the proposed utility service in the subdivision.

7. The quality of the untreated water meets the U. S. Public Health Drinking Water Standards with respect to physical and chemical characteristics.

8. The water system plans are approved by the State Board of Health.

9. The Applicant holds a franchise to provide water utility service in six subdivisions in Catawba and Caldwell Counties, North Carolina, and it furnishes water utility service to approximately 250 customers in said subdivisions.

10. The provision in the Applicant's proposed rates specifying "bills due 20 days after date rendered" does not conform to the uniform billing practices proposed by the Commission, and such a provision specifying "bills past due 25 days after date rendered" would be reasonable pending final disposition of the Commission's proceeding concerning uniform billing practices in Docket No. M-100, Sub 39.

11. The annual revenues, based on the proposed flat rate and on 54 customers, would be approximately $3240 for water service.

Based on the foregoing Findings of Fact, the Hearing Commissioner reaches the following:

CONCLUSIONS

There will be a demand and need for water utility service in Homestead Park Subdivision which can best be met by the Applicant.

The initial rates approved by the Commission for water utility service in Homestead Park Subdivision should be those contained in the Schedule of Rates attached hereto, which rates are not in excess of those rates found to be reasonable for similar public water utilities under average operating conditions, and which are concluded to be just and reasonable for the service described herein.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, Urban Water Company, Inc., is hereby granted a Certificate of Public Convenience and Necessity in order to provide water utility service in Homestead Park Subdivision, as described herein and more particularly as described in the application made a part hereof by reference.

2. That this Order in itself shall constitute the Certificate of Public Convenience and Necessity.

3. That the Schedule of Rates attached hereto as Appendix "A" is hereby approved, and that said Schedule of Rates is hereby deemed to be filed with the Commission pursuant to G.S. 62-138.

5. That the Applicant shall maintain his books and records in such a manner that all the applicable items of information required in the Applicant's prescribed Annual Report to the Commission can be readily identified from the books and records, and can be utilized by the Applicant in preparation of said Annual Report.

6. That the Applicant is hereby cautioned that in the event the present arrangements for providing dependable and prompt maintenance and repair service are terminated, the Applicant shall immediately make alternate arrangements which shall be at least as reliable as the present arrangements, and the Applicant shall immediately notify the Commission of such alternate arrangements.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Anne L. Olive, Deputy Clerk

(SEAL)

APPENDIX "A"
DOCKET NO. W-256, SUB 4
Urban Water Company, Inc.
Homestead Park Subdivision, Catawba County

WATER RATE SCHEDULE

METERED RATES (residential service)

Up to first 3,000 gallons per month - $5.00 minimum
All over 3,000 gallons per month - $0.85 per 1,000 gallons

FLAT RATES

Minimum rates under metered rates until such time as meters are installed for all customers.

CONNECTION CHARGES

$200 tap-on fee, plus $65.00 meter setting fee

RECONNECTION CHARGES

If water service cut off by utility for good cause (NCUC Rule R7-20f): $4.00
If water service discontinued at customer's request (NCUC Rule R7-20g): $2.00

BILLS PAST DUE: Twenty-five (25) days after date rendered

Issued in accordance with authority granted by the North Carolina Utilities Commission in Docket No. W-256, Sub 4, on December 5, 1972.

DOCKET NO. W-186, SUB 93

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Application by Greenwood Village Property Owners' Association, Box 158, Warrenton, North Carolina, for Exemption of its Water System Operation in Greenwood Village Subdivision, Warren County, North Carolina, from Regulation	ORDER GRANTING EXEMPTION FROM REGULATION

On January 10, 1972, the Applicant, Greenwood Village Property Owners' Association, filed an application with the North Carolina Utilities Commission for exemption of its water system operation in Greenwood Village Subdivision, Warren County, North Carolina, from regulation by the Commission.

Based upon the application treated as an affidavit, the Commission makes the following

FINDINGS OF FACT

1. The Applicant, Greenwood Village Property Owners' Association, is a corporation duly organized under the laws of the State of North Carolina, and is authorized under its Articles of Incorporation to engage in the operation of a non-profit water system for the mutual benefit of the owners of property in Greenwood Village Subdivision.

2. The Applicant proposes to furnish water service in Greenwood Village Subdivision, Warren County, North Carolina, and to furnish said service only to the members of the Applicant corporation.

3. The Applicant has entered into agreements securing ownership and control of the water system and of the site for the well.

4. Greenwood Village Subdivision is a residential subdivision consisting of approximately 32 lots and approximately 3 streets. The subdivision is located on county road 1001 in Warren County.

5. The water system plans are approved by the State Board of Health.

6. The Applicant's Bylaws provide that membership in the Applicant corporation will be automatic upon purchase of a lot in Greenwood Village Subdivision, and that the affairs of the corporation shall be directed by a 5 member board of directors containing 3 property owner members and 2 developer members, and that property owner members shall be elected by the property owners, and that developer members shall be elected by Greenwood Village Inc., the developer of the subdivision.

7. The proposed water system facilities will cost approximately $15,000, and will be financed entirely by Greenwood Village, Inc., the developer.

8. Application to this Commission was prompted mainly by the fact that Farmers Home Administration requires that the property owners obtain certification that the water system is exempted from regulation by the North Carolina Utilities Commission prior to guaranteeing home loans to property owners.

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

CONCLUSIONS

It is undisputed that the Applicant is neither a municipal corporation, political subdivision, nor a public agency. It is clear that it will furnish water service to 10 or more residential customers for compensation. It is also clear that the water system will not be financed by Farmers Home

Administration. The Applicant is, therefore, not exempt from this Commission's jurisdiction as a matter of express statutory law. However, the Commission is of the opinion that the controlling question under the statutes is, essentially, "Is the Applicant holding itself out to furnish water service to the public for compensation?"

The Commission has found as a fact that the Applicant proposes to operate a "non-profit" water system, and that it will serve only its members. The Commission also found that the Applicant's membership is presently limited by its articles of incorporation and bylaws, and that control of the rates and operation of the water system is in the hands of the members. This is proper in a membership association since the ratepayer is also the owner and he controls his own equity thereby.

For the present the Commission concludes that the Applicant does not meet the statutory definition of a public utility such as to require its regulation by this Commission.

Should the Applicant's bylaws or its source of financing be changed, or should it actually hold itself out to serve the public in any way, the Commission shall then reconsider whether it should be regulated.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Applicant, Greenwood Village Property Owners' Association, is hereby granted an exemption of its water system operation in Greenwood Village Subdivision, Warren County, North Carolina, from regulation by this Commission.

2. That this Order in itself shall constitute the Certificate of Exemption.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of January, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. W-192, SUB 2
DOCKET NO. W-191, SUB 2
DOCKET NO. W-167, SUB 1
DOCKET NO. W-193, SUB 1
DOCKET NO. W-194, SUB 2
DOCKET NO. W-181, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of Application for Approval of Increased Rates for Water and Sewer Utility Services by the following Utilities: W-192, Sub 2 - Beatties Ford Utilities, Inc. Beatties Ford Park W-191, Sub 2 - Derita Woods Utilities, Inc. Derita Woods Subdivision and Mallard Creek W-167, Sub 1 - Idlewild Utilities, Inc. Sharon Forest, Idlewild, Coventry Woods, and McAlpine Creek drainage basin W-193, Sub 1 - Sharon Utilities, Inc. British Woods and Starmount W-194, Sub 2 - Springfield Utilities, Inc. Springfield Subdivision, Nations Ford Road and York Road W-181, Sub 3 - Providence Utilities, Inc. McAlpine Creek drainage basin	) RECOMMENDED ORDER DENYING RATE INCREASE

HEARD: September 28, 1972, in County Commissioners Board Meeting Room, 4th Floor, County Office Building, 720 E. 4th Street, Charlotte, North Carolina

BEFORE: Commissioners John W. McDevitt, Presiding, Hugh A. Wells and Miles H. Rhyne

APPEARANCES:

For the Applicants:

John A. Mraz
Mraz, Aycock & Casstevens
Attorneys at Law
202 Civic Plaza
Charlotte, North Carolina 28202

For the Commission Staff:

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

BY COMMISSIONERS WELLS AND McDEVITT: This proceeding was instituted on May 16, 1972, by the filing of Applications for rate increases for water service or sewer service or water and sewer service, respectively, by the following six water utilities, all of which are wholly-owned subsidiaries of The Ervin Company, Charlotte, North Carolina: Beatties Ford Utilities, Inc. (hereinafter called "BEATTIES FORD"); Derita Woods Utilities; Inc. (hereinafter called "DERITA WOODS"); Idlewild Utilities, Inc. (hereinafter called "IDLEWILD UTILITIES"); Sharon Utilities, Inc. (hereinafter called "SHARON UTILITIES"); Springfield Utilities, Inc. (hereinafter called "SPRINGFIELD UTILITIES"); and Providence Utilities, Inc. (hereinafter called "PROVIDENCE UTILITIES").

By Order of the Commission entered on June 14, 1972, the six Applications of the above utilities were consolidated for hearing, the rate increases were suspended for a period up to 270 days, and the applicants were required to publish notice of the Application and the public hearing thereon in a newspaper of general circulation in the area served. The Commission Order further required that the Commission Staff make an examination and investigation of the books and records of the applicants, and that the applicants and the Commission Staff be prepared to testify and report their findings at the public hearing.

The Commission received letters of protest to the rate increase from customers of the applicants, and by Order of August 2, 1972, the Commission rescheduled the hearing to be held in Charlotte, North Carolina, on September 28, 1972.

The proceeding came on for hearing and was heard by the Commissioners shown above, and the parties appeared and were represented by counsel as shown above.

The applicants offered testimony and exhibits of the following witnesses:

Jerry Oliver, Manager of the Utility Department of The Ervin Company, testified that The Ervin Company Utility Department consisted of 30 employees, with 12 vehicles and other equipment, who operated the water and sewer systems of the applicants, including making tests of the quality of the water and control of the effluent from the sewer systems; that The Ervin Company had incurred increased expenses in operating said water and sewer systems under the 1971 effluent laws enacted in North Carolina, and had purchased a dewatering unit and a sludge concentrator, and increased their testing laboratory; that additional expense was incurred under the new requirements for burying sludge from the sewer treatment plants.

Michael B. Hammons, Certified Public Accountant and Assistant Controller of The Ervin Company, testified as to the financial operations of the six applicants as subsidiaries of The Ervin Company; identified and offered as

evidence the financial statements showing the individual financial operations of the six applicants, as well as the combined operation of the six applicants; that the applicants had received contributions-in-aid of construction from their customers upon original installation of service which exceeded the total cost of the utility plant of the six applicants; that the contributions-in-aid of construction from the applicants' customers were treated as income on advice of the applicants outside auditors, Arthur Andersen & Company; that the treatment of contributions as an expense, rather than as a reduction of capital, would be adverse to the customers if they had to support a return on the capital; that the fair value of the plant of the six applicants was $349,967, based on his contention that only one-half of the contribution-in-aid of construction should be deducted from the utility plant, and the other one-half be charged to income tax on the income treatment of the contribution; that the applicants purchased their water from the City of Charlotte and resold the water to customers, and that on June 1, 1972, the City of Charlotte increased the price of water from 70¢ per 100 cubic feet to 80¢ per 100 cubic feet for the first water rate block and similar increases in the other rate blocks, causing an annual increase in the price of water purchased of $14,038; and that since June 1, 1972, the City of Charlotte is charging more for water customers outside the City limits than the rate sought by the applicants.

Charles Rust, Professional Engineer and Manager of the Engineering Department for the Ervin Construction Company, testified that he had studied the utility plant of Providence Utilities, Idlewild Utilities, Sharon Utilities and Derita Woods, and that the sewer collection systems alone would cost $990,845, $989,237, $308,403, and $168,621, respectively, to replace at today's construction costs.

Wallace Henderson, Collection Manager for The Ervin Company, testified that his department had eight employees; that one regular employee, plus part-time of others, was devoted to utility collections; that the average bill for Springfield Utilities water and sewer service was $8.00 a month; that the average water and sewer bill for Providence Utilities was $10.00 a month; and that the average bill for Beatties Ford was $6.00 to $8.00 a month.

The Commission Staff offered testimony and exhibits of the following witnesses:

Donald Hoover, Accountant, testified as to the examination of the books of the applicants and offered in evidence the audit report identified as Staff Exhibit 1, setting out the results of the audit, including the showing of a deficit in utility plant from contributions-in-aid of construction in excess of the original net investment in plant, with a deficit of $365,408; that due to said negative plant account, the audit was reported on the basis of operating ratio of the consolidated applicants, as well as the

individual applicants, rather than on a rate of return basis; that on the consolidated basis, the applicants had an operating ratio, after accounting and pro forma adjustments, of 107.12%, based on a deficit in net operating income for return, after depreciation, of $(33,835); that after the proposed rate increase of $119,728 annually, the six applicants would have net operating income for return, after depreciation, of $48,908, with operating ratio of 91.88%; that the reported net operating income would be reduced by increases in the water rates charged by the City of Charlotte and for wholesale rates and by the salary increase to be effective after the test period.

David F. Creasy, Water and Sewer Engineer of the Utilities Commission Staff, testified that he had analyzed the depreciation rate utilized by the Staff Accountant in the audit and that the depreciation rate appeared reasonable; that the Commission Staff had received approximately ten letters of protest to the rate increase, including two letters with 45 names listed and 200 names listed, respectively; that none of the customers complained of inadequate service; that expenses of operating sewer service are indirectly related to the volume of sewage handled, but are more directly related to the fixed costs of operation and maintenance of the sewer plant; that the seven largest customers of the applicants, including affiliated apartment developments, are charged water rates which adequately cover the cost of service, including a return at least equal to that of other customers, or greater.

The following witnesses appeared in protest to the increase:

Fred E. Carlock, sewer customer of Providence Utilities, complained that the sewer rates are unjust as being based upon city sewer charges outside of the city, which are 100% of the city water rates and are double the sewer charges inside the city, and that other subdivisions nearby have sewer charges which are one-half of the water rate; that there had been trouble with overflow in the sewer mains in Lansdowne Subdivision; and that the Lansdowne Subdivision would be annexed by the city in 1973.

The witnesses James Tucker, James Robertson, William J. Evans, Gerald B. Reese, William C. Westbrook and Gerald B. Weyman all were sworn and stated that they would testify to the same facts as Fred E. Carlock, and were tendered for cross-examination.

J. T. Manning, customer of Providence Utilities, testified that sewer rates, based on Charlotte's bill of double the rate inside the city, is a penalty; that his water and sewer bill for a twelve months' period was $235.00, or an average of $19.65 per month; that he had incurred water backing up into his basement and had difficulty initially in getting service because of the ownership of the mains in his area by Spangler Construction Company.

George Evans testified that the national water rate was $10.00 to $11.00 per month for a family of five; that his water bill averaged $11.90 per month; and that his service was all right.

Daniel Lee Anderson, customer of Beatties Ford, testified that his water and sewer bill was $16.00 to $17.00 a month; that his service is all right; and that in heavy rains the sewer backs up on his street.

Johnny Jones, customer of Beatties Ford, testified that in August 1972 his water and sewer bill was $44.00; and that he had complained about the size of his bill.

Elvin Vernon Richards, customer of Springfield Utilities, testified that water and sewer bills in his subdivision ran from $20.00 to $40.00 a month; that his bill averages $14.00 a month; and that the bill for March 1972 was $19.00 and that two years ago his bill was $35.00.

Based upon the testimony and exhibits and the record herein, the Commission makes the following

FINDINGS OF FACT

1. That the applicants, Beatties Ford Utilities, Inc., Derita Woods Utilities, Inc., Idlewild Utilities, Inc., Sharon Utilities, Inc., Springfield Utilities, Inc., and Providence Utilities, Inc., are all public utility companies duly incorporated in North Carolina holding Certificates of Public Convenience and Necessity to operate public utility service in their respective service areas in Mecklenburg County, North Carolina, and all are wholly-owned subsidiaries of The Ervin Company, Charlotte, North Carolina.

2. That the test year of the calendar year 1971 is a reasonable test period for determination of rates for the applicants.

3. That the applicants are all wholly-owned subsidiaries of The Ervin Company and are operated by the Utility Department of The Ervin Company, with a consolidated operating department; that the same personnel of The Ervin Company operate the water and sewer service or the sewer service or water service, respectively, of each of the applicants, and the same employees of The Ervin Company do the billing and accounting and handling the administrative costs of all six applicants; that the operation of the six applicants are consolidated for determination of just and reasonable rates in this proceeding.

4. That the original cost of the six applicants in utility plant dedicated to service as of December 31, 1971, was $1,613,763; that the customers of the six applicants made contributions-in-aid of construction to the applicants in the amount of $1,733,069; that the accumulated

depreciation charged in the operation of the six applicants as of December 31, 1971, is $427,598; that the total depreciation and contributions-in-aid of construction is $2,200,667, leaving a net original cost investment as contemplated by G. S. 62-133(b)(1), a deficit amount of ($586,904); and that the applicants' working capital allowance is $36,391.

5. That the balance of working capital allowance and net original cost leaves a combined net investment in utility plant plus allowance for working capital in a deficit amount of ($550,513).

6. That the applicants have not offered sufficient or adequate evidence upon which to determine the replacement cost of the utility plant in service.

7. Based upon the customers' contributions-in-aid of construction in excess of the investment by the applicants in utility plant, the Commissioners find that the applicants have a zero rate base under the ratemaking formula provided in G. S. 62-133, as they have not provided any of the capital required for construction of the utility plant, and the customers of the applicants have provided all of the capital in the form of contributions-in-aid of construction and have, in fact, provided additional capital to the applicants in the form of contributions-in-aid of construction in excess of the cost of original plant.

8. That under the present rates, and after appropriate accounting and pro forma adjustments in the operating statements of the applicants, the applicants have a net operating income, before depreciation expense, of $31,533; that after depreciation expense of $65,368, the applicants have net operating income for return of a loss or deficit of ($33,835); that the depreciation expense represents depreciation computed on plant in service which was more than covered by the contributions-in-aid of construction paid by the applicants' customers; and that the applicants have a cash flow before depreciation expense or a net cash flow after all other expenses of $31,533.

9. That the City of Charlotte has instituted annexation procedures to annex a substantial part of the areas served by the applicants on June 30, 1973 (late filed Exhibit 2 of Commission Staff as certified by the City Attorney of the City of Charlotte, with the applicants' service areas shown thereon by the applicants); that said annexation includes all of Springfield Utilities, Sharon Utilities and Derita Woods, and substantially all of the built-up areas of the service area of Providence Utilities, and all but a small portion of the Idlewild Utilities. The only service area not to be annexed entirely, or in major part thereof, is Beatties Ford, which is not included in the annexation.

10. That the Utility Department of The Ervin Company operates other subsidiary utility operations in addition to

those of the six applicants herein, including subdivisions and utility companies not included in this proceeding.

11. That the applicants have a net operating income before depreciation of $31,533 over and above all expenses, and that without any investment of the applicants in the plant involved, based upon contributions-in-aid of construction in excess of said plant, the said operating income before depreciation is reasonable and just under the present rates, and any increase in the present rates would be unjust and unreasonable.

CONCLUSIONS

The Commissioners conclude that the applicants have received contributions-in-aid of construction from their customers in excess of the cost of installing the utility plant in service and have enjoyed the use of said excess contributions-in-aid of construction since the original installation of the utility service herein, together with the enjoyment of the net operating income before depreciation; that the cash flow of the company, after payment of all expenses other than the reserve for depreciation, has adequately compensated the applicants for their management expense and reasonable profits under the operation of the utility plants of the applicants. Most of the service areas served by the applicants are subject to be annexed by the City of Charlotte on June 30, 1973. The water and sewer service in these areas will be provided by the City of Charlotte, and the Commissioners find that it would be unjust and unreasonable to increase the applicants' rates for the period from the time of this Order through said annexation, which is presently planned for June 30, 1973.

IT IS, THEREFORE, ORDERED:

1. That the Applications of Beatties Ford Utilities, Inc., Derita Woods Utilities, Inc., Idlewild Utilities, Inc., Sharon Utilities, Inc., Springfield Utilities, Inc., and Providence Utilities, Inc., filed herein for increases in rates for water and sewer utility service be, and are hereby, denied.

2. That the applicants shall continue to provide water and sewer service at their present rates until such time as the water and sewer service in the applicants' service areas is assumed by the City of Charlotte, or until further Order of the Commission.

ISSUED BY ORDER OF THE COMMISSION.
This the 5th day of December, 1972.

NORTH CAROLINA UTILITIES COMMISSION
(SEAL) Ann L. Olive, Deputy Clerk

Docket No. W-192, Sub 2 -- Beatties Ford Utilities, Inc.
Docket No. W-191, Sub 2 -- Derita Woods Utilities, Inc.
Docket No. W-167, Sub 1 -- Idlewild Utilities, Inc.
Docket No. W-193, Sub 1 -- Sharon Utilities, Inc.
Docket No. W-194, Sub 2 -- Springfield Utilities, Inc.
Docket No. W-181, Sub 3 -- Providence Utilities, Inc.

RHYNE, COMMISSIONER, DISSENTING: I dissent from the decision of the majority of the Division assigned to this proceeding for the reason that the Recommended Order issued herein has the effect of disallowing any depreciation expense for the applicant water and sewer companies, with the result that a rate increase is denied for the applicant utility companies which are losing money under ordinary methods of accounting. While it is true, as the majority stated in the Recommended Order, that the utility companies received contributions-in-aid of construction in excess of their investment in utility plant, the testimony shows that 50% of said contributions was paid as income taxes on said payments by the applicants, and that their out-of-pocket investment remained at $340,000. Depreciation on this investment, together with known increases in wholesale water rates from the City of Charlotte, occurring after the test period but before the date of the hearing, and known wage increases occurring prior to the hearing, result in substantial losses to the applicant water and sewer companies. The greater weight of the testimony shows that they are providing good service, that through the parent corporation they have a large staff of twenty-six employees assigned to work for these companies, and that the complaints which were registered were corrected some time ago, with the exception of some billing complaints which are currently being investigated by the Commission and the applicants. The denial of rate increases for public utilities that are losing money fails to observe the rate formula in G. S. 62-133 providing that the Commission shall fix rates sufficient to permit a fair rate of return on the fair value of the property used and useful in serving the customers. Public utilities cannot be expected to continue to provide good service at a loss to the utility under the circumstances shown in this case. Contributions-in-aid of construction have never been held to deprive the utility company of title to their investment, although adjustments and other methods of recognizing the contributions-in-aid of construction are part of the ratemaking procedure. The rates proposed by the applicants are not excessive rates on the standards of rates in the Charlotte area and are lower than the rates charged by the City of Charlotte for service outside the city limits. I would approve the rates as filed, on the grounds that the evidence establishes that they are just and reasonable under the tests provided by law.

For these reasons, I dissent from the majority Recommended Order.

Miles H. Rhyne

DOCKET NO. W-119, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	
Petition by Brookhaven, Incorporated, 120 North Boylan Avenue, Raleigh, North Carolina, for Approval of Increased Rates for Water Utility Service in Brookhaven Subdivision, Wake County, North Carolina	) RECOMMENDED ORDER APPROVING RATE INCREASE

HEARD IN: The Hearing Room of the Commission, Ruffin Building, Raleigh, North Carolina, on Friday, October 20, 1972, at 4:30.

BEFORE: Chairman Marvin R. Wooten, Hearing Commissioner

APPEARANCES:

For the Applicant:

F. Kent Burns
Boyce, Mitchell, Burns & Smith
Attorneys at Law
P. O. Box 1406, Raleigh, North Carolina

For the Commission Staff:

William E. Anderson
Associate Commission Attorney
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

WOOTEN, CHAIRMAN: On August 8, 1972, Brookhaven, Incorporated, (hereinafter referred to as Petitioner), 120 North Boylan Avenue, Raleigh, North Carolina, filed its Petition seeking approval of a new schedule of increased rates and charges for water service rendered by it in Brookhaven Subdivision, Wake County, North Carolina, to become effective on thirty (30) days' statutory notice on September 8, 1972. By Order dated September 8, 1972, the Commission suspended the said increased rates and charges. It appearing to the Commission that the application in this case affected the interest of the using and consuming public, and that the public should have an opportunity to intervene or to protest the application, issued its Order declaring this matter to be a general rate case, setting the same for hearing and requiring public notice. Subsequent to the original setting of this matter for hearing, the Commission by Order dated September 21, 1972, finally set the matter for hearing at the time and place captioned, of which due and timely notice was ordered as required by law.

Notice was given by the Petitioner through newspaper advertising as required by law and further actual notice was given by the Petitioner to each of its customers in its service area here involved.

The present and proposed rates and charges are:

WATER RATE SCHEDULE
STATEMENT OF PRESENT AND PROPOSED RATES

Consumption Per Month In Cubic Feet		Rate Per 100 Cubic Feet Present	Proposed
First	3,200	$ .56	$ .95
Next	3,300	.52	.89
Next	6,500	.48	.81
Next	13,500	.43	.73
Next	20,000	.36	.62
Next	20,000	.33	.57
Next	33,500	.27	.57
All over	100,000	.26	.57
		Present	Proposed
Minimum Charge Per Month Payable in Advance		$2.50	$3.80

No Charge for Service Connection and Miscellaneous

In presenting its case, the Petitioner offered the testimony of Louis Wooten, Jr., President of Brookhaven, Inc., and an associate of L. E. Wooten and Company, Engineers, of Raleigh, North Carolina, who testified regarding the need by the Petitioner of the increased rates applied for and also testified regarding the loss operations of his company. Mr. Wooten testified that the present rates of Brookhaven, Inc., were established in 1956, at which time the rates were established by this Commission equal to the rates charged by the City of Raleigh for residents living outside said City; that since their present rates were established, the City of Raleigh has increased its rates for customers living outside the City by 25% and that since 1964, Brookhaven, Inc., has been charging water rates to its customers less than that charged by the City of Raleigh for customers located outside said City; that for the year 1971, Brookhaven, Inc., had a loss in its operations of $4,923.52; that on account of additional water rate increases imposed by the City of Raleigh effected in August, 1972, the company will have an additional loss operation occasioned by said water rate increase by Raleigh in the amount of $10,734; and that the rates herein proposed would not make the water operations of Brookhaven, Inc., a profitable operation but would serve to only minimize its losses in the future.

Additionally, the Petitioner offered the testimony of Mark Lynch, who is a partner in the firm of Lynch and Howard, Certified Public Accountants, Raleigh, North Carolina. Mr. Lynch testified regarding the book figures of the company in support of the Petitioner's rate increase in this case, pointing out that the proposed rates would little improve the Petitioner's loss operation and would not make it a profitable operation.

The Staff presented its evidence through Mr. Danny B. Jones, Staff Accountant, who testified in detail regarding his accounting investigation and his accounting and pro forma adjustments and projections in this case, which were filed by the Staff as exhibits and are a part of the record. The Staff's accounting and pro forma adjustments show a rate of return after the proposed increase on net investment to be 64.96%, which said rate of return results in a net operating ratio for the company of 97.35%, which indicates a profit to the company annually under the new rates, after pro forma and accounting adjustments, of $1,518.60.

There were two letters of protest received by the Commission, but no protestants were present to offer any evidence in this case.

Upon consideration of the record, the Commission makes the following

FINDINGS OF FACT

1. The Petitioner, Brookhaven, Inc., is now and has been for a number of years engaged in the business as a public utility of selling and distributing water to the public in Wake County, North Carolina, in Brookhaven Subdivision; that in supplying such service, the Petitioner is under the jurisdiction of this Commission; that the Petitioner presently furnishes water to the public in the subdivision known as Brookhaven, located in Wake County, North Carolina; and that the water system operations of the Petitioner were founded and operated by the Petitioner under a Certificate of Public Convenience and Necessity issued by this Commission.

2. That the rates and charges which the Petitioner here presents for approval are the same rates and charges presently being charged by the City of Raleigh, North Carolina, to its customers living outside the limits of said City;

3. That the present and proposed rates and charges of the Petitioner are as follows:

WATER RATE SCHEDULE
STATEMENT OF PRESENT AND PROPOSED RATES

Consumption Per Month In Cubic Feet		Rate Per 100 Cubic Feet Present	Proposed
First	3,200	$ .56	$ .95
Next	3,300	.52	.89
Next	6,500	.48	.81
Next	13,500	.43	.73
Next	20,000	.36	.62
Next	20,000	.33	.57
Next	33,500	.27	.57
All over	100,000	.26	.57
		Present	Proposed
Minimum Charge Per Month Payable in Advance		$2.50	$3.80

No Charge for Service Connection and Miscellaneous

4. That the present operations by the Petitioner are "loss operations" in that the Petitioner's operating revenues are not sufficient to cover its operating expenses, and that upon approval of the rates and charges here applied for, based upon present operations and the Petitioner's accounting figures, the same would not produce sufficient additional operating revenues to cover present operating expenses, but would only constitute some relief in connection therewith; that the Petitioner's operations, based upon present conditions and the Staff's accounting and pro forma adjustments after the proposed rate increase, would produce an annual profit of $1,518.60, which said profit produces a net operating ratio of 97.35%; that the projected additional expense to be incurred by the Petitioner on account of the increase in its wholesale cost of water is found to be $10,734 instead of $13,935 as originally predicted by the Petitioner; and that the Petitioner's operations, based upon present conditions and the Staff's accounting and pro forma adjustments (excluding the Staff's deduction of a portion of the salary of L. E. Wooten, Jr.) after the proposed rate increase, would produce an annual profit of $3,031.60, which said profit will produce a net operating ratio of 94.7%, which we find to be appropriate, proper, just and reasonable, which said calculations include the full salary of L. E. Wooten, Jr., as appropriate, and the proper additional expenses to be incurred of $10,734 occasioned by the increase in the wholesale cost of water.

5. That an operating ratio for the Petitioner of 94.7% after approval of the increases in rates and charges as applied for under its present operating conditions is just, reasonable and otherwise lawful.

6. That the Petitioner's net investment in water plant after appropriate accounting adjustments is a negative of

($3,864.15), which contemplates deductions for depreciation reserve and contributions in aid of construction; that a reasonable allowance for working capital of 1/8 of operating expenses, plus materials and supplies would be $6,201.86, and that Petitioner's total net investment in water plant plus reasonable allowance for working capital is $2,337.71.

7. That Petitioner's operations, after Staff accounting and pro forma adjustments, using the proposed rate increase for the test period, produces a profit of $1,518.60; that Petitioner's operations after accounting and pro forma adjustments by the company, using the proposed rates for the test period produces a loss of $199.73; and that the Petitioner's operations after adjustments herein found to be just and reasonable using the proposed rate increase for the test period, produces a profit of $3,031.60, which is here found to be just and reasonable.

8. That the Petitioner elected not to present any evidence of fair value of its utility property used and useful in supplying its water utility service to its customers in its certificated territory; that the Petitioner's original investment in utility plant at cost is $195,438.40; and that the net investment in utility plant used and useful in North Carolina, plus an allowance for working capital is found to be $2,337.71.

9. That in the light of the investment in utility properties, the proposed rates and charges in this case will not yield an operating ratio or a rate of return on actual value of Petitioner's property above that which is just and, reasonable and, consequently, the rates and charges for which approval is here sought are, therefore, not unjust or unreasonable and are, therefore, lawful.

10. That the proposed rates and charges in this case will yield no more than a fair return on the value of the Petitioner's utility properties and will yield an operating ratio well within the range of reasonableness, and, therefore, the rates and charges specified are just, reasonable and otherwise lawful.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSIONS

1. G. S. 62-30(3) provides that this Commission shall have general supervision over the rates charged and the services rendered by water companies whose operations consist of affording such service to ten or more customers. Petitioner has been engaged for a number of years in the furnishing of water service to residents in Wake County, North Carolina. The furnishing and distribution of an adequate and safe water supply to the public is necessary and essential. The Petitioner has been furnishing water service, as hereinbefore set out, at a loss, and the

increase here sought and considered would be fair and reasonable and such as should be approved and allowed at this time.

2. 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 Petitioner's property used and useful in rendering service and producing revenue 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 Petitioner is engaged in rendering has also increased.

3. Giving further consideration to all the facts and circumstances, we have here found, we now conclude that the Petitioner's net investment plus an allowance for working capital is $2,337.71, and when viewed in the light of the age of the system and the original investment of $195,438.40, we further conclude that it is proper in this case to consider the revenue to the company in the light of the operating ratio which such revenues will produce, and in reflecting thereon, conclude that a 94.7% operating ratio considering such initial investment is both just and reasonable and, therefore, lawful. The rates and charges which the Petitioner proposes to make effective for its water service will enable it to pay all of its operating expenses, meet its obligations and have not more than $3,031.60 in net operating income for return. 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.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That the Petitioner be, and it is, hereby authorized to adjust its rates and charges and institute the charge for service as proposed by it and as specifically set forth in Appendix "A" hereto attached.

2. That the Petitioner be, and it is, hereby allowed to make such rates and charges effective on all meter readings and billings on and after the effective date of this Order by filing them with the Commission prior to that time.

ISSUED BY ORDER OF THE COMMISSION.

This the 1st day of November, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

APPENDIX "A"
DOCKET NO. W-119, SUB 3
BROOKHAVEN, INCORPORATED

WATER RATE SCHEDULE

Consumption per Month In Cubic Feet		Rate Per 100 Cubic Feet
First	3,200	$ .95
Next	3,300	.89
Next	6,500	.81
Next	13,500	.73
Next	20,000	.62
Next	20,000	.57
Next	33,500	.57
All over	100,000	.57

Minimum Charge Per Month
Payable in Advance $ 3.80

No Charge for Service Connection and Miscellaneous

Bills Due: In Accordance with Commission rules.

DOCKET NO. W-179, SUB 5

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Application by Catawba Water Supply, Incorporated, 36 Twenty-Ninth Avenue, N. E., Hickory, North Carolina, for Authority to Increase Rates) ORDER DENYING RATE INCREASE

HEARD IN: Commission Hearing Room, Raleigh, North Carolina on February 29, 1972, at 10:00 A.M.

BEFORE: Commissioners Marvin R. Wooten, Presiding, John W. McDevitt and Miles H. Rhyne

APPEARANCES:

For the Applicant:

Eddy S. Merritt, Esq.
Attorney at Law
P. O. Box 607, Hickory, North Carolina 28601

For the Commission Staff:

William E. Anderson, Esq.
Assistant Commission Attorney
North Carolina Utilities Commission
P. O. Box 991, Raleigh, North Carolina 27602

No Protestants.

BY THE COMMISSION: This matter arose upon the filing of an application for increased water rates on November 9, 1971. The proposed increase amounts to a change in the monthly flat rate of $4.00 to $6.00 and the monthly metered rate from $4.00 to $6.00 for the first 3,000 gallons and from $.60 to $.75 per 1,000 gallons thereafter. The effect of the proposed increase would be additional gross revenues of approximately $8,000.

The Commission determined the matter to be a general rate case under G. S. 62-133, suspended the effective date of the proposed rates in accordance with G. S. 62-134 and required that public notice be given of the proposed increase. The Commission Staff received numerous customer protests to the rate increase and complaints about the adequacy of the service being provided. The Commission's Accounting Department conducted an audit of the Applicant's books and records and the Commission's Engineering Staff conducted an original cost study and service investigation.

When the matter came on for hearing at the time and place previously designated, the Applicant corporation was represented by counsel and offered the testimony of its President and General Manager, Mr. W. Roy Morrison. The Applicant also offered an affidavit and exhibits of Mr. Alex Barringer, a public accountant who has helped keep the books and records of Catawba Water Supply, Inc., and has prepared the company's income tax returns during the past five years. The Commission Staff stipulated that the affidavit and exhibits of Mr. Barringer could be received into evidence without objection and without the witness being brought to Raleigh and tendered for cross-examination.

Mr. William Roy Morrison, President and General Manager of Catawba Water Supply, Inc., testified that he is the chief stockholder and was the organizer of the corporation; that the rates currently being charged were approved by the Commission in 1964, with the exception that the Applicant was providing water service on a flat rate rather than a metered rate, the metered rate being applicable only to four or five customers; that the company currently requests a flat rate of $6.00 per month; that the corporation currently operates thirteen water systems, the Herman Development being closed down in 1971 because the customers tapped on to city water which had become available in the area. He testified that on the basis of Mr. Barringer's audit, the company had profits for the year 1970 of $158.95 and paid salaries and wages primarily to his wife and himself in the amount of $4,480; that the projected gross income under the increased rates would be $21,563 as opposed to revenues of $16,173.75 under the existing rates; that the Applicant serves approximately 250 customers and that substantial growth in the number of customers in the future is not anticipated.

On cross-examination, Mr. Morrison testified that his books and records, as of January 1972, might indicate that

there are at least 309 customers as of that time; that no customers in the Herman Development receive water from the Applicant because the customers switched over to the city water system during the period of about two years and that the last two customers were served in July of 1971; that the Applicant has operated the water supply in the Oakdale Subdivision for the last two years without obtaining a franchise for that operation; that he first started operating it in about 1962 but sold it and took it back during that time; that during the time he has been operating these water systems over the past ten or fifteen years, he has frequently received complaints about inadequate pressure or insufficient water; that he tries "to impress on the building contractors that I put the system in to furnish home use only; and that it is not prepared for adequate line size and pumps for irrigation and to have the contractor explain it is for home water use and not for irrigation"; that as to what the developer or contractor or real estate sales agent tells a prospective house buyer, "I think that is the problem, maybe to put a little extra emphasis, they say water for everything you want. Some of the customers have told me that, said that is the reason they irrigated"; that by irrigation, he means watering the lawns through automatic sprinklers; that he is aware of pressure problems or water problems on weekends in the winter time and in the fall and that he tries to do something about that by raising the size of the pump or adding storage capacity; that he has never installed the meters because of lack of financing and the expectation that the meter installation program would cost $7,000 or more; that he had received a copy of a letter from Mr. R. M. Griffin, dated January 14, 1972, inquiring as to whether the Applicant has State Board of Health approval for each of the water systems to be affected by the proposed rate increase, but that he had not responded to the information request; that three of the systems have been approved by the Board of Health and others have been accepted for surveillance such that he sends water samples in; that he has not sent in water samples regularly from Fairbrook Park and Whispering Pines because the public health law does not require samples from systems with less than ten customers; that he remembered receiving a letter from the State Board of Health in 1964 advising that additional customers should not be hooked onto a number of the systems because of insufficient line size, but that he has hooked customers on since that time because he did make improvements although those improvements did not include enlarging the line sizes.

On redirect examination, Mr. Morrison testified that with the exception of Random Woods and Colonial Heights, each of the water systems was started with a very few users and when the lines were put in, those lines were of sufficient size to furnish the customers for whom service was contemplated; that when he contracted with the developers, "I put in a lot of systems and they left it up to me to put in the size to furnish the water for the need."; that in 1953 he had obtained technical data indicating 1-1/4" line sizes were

adequate under certain conditions but he was not sure where he got the pamphlet from; that the corporation does not have the funds or the credit to replace all of the inadequate lines and do the other things that the Health Department says ought to be done to get approval; that in Colonial Heights, which is the largest system he has, the design has been approved by the Board of Health and is adequate.

The Audit Report of Mr. Allen J. Schock, Staff Accountant, North Carolina Utilities Commission, was introduced into evidence and made a part of the record herein, although there was no request that Mr. Schock be tendered for cross-examination. That report demonstrates, among other things, that the proposed rate adjustment would create additional revenues of $6,552 and would result in a rate of return on net investment in utility plus allowance for working capital of 8.25%.

The Staff offered an original cost study and a service investigation report prepared by Mr. R. M. Griffin of the Commission Engineering Department, Water and Sewer Division, and Mr. Griffin testified regarding his investigation. Mr. Griffin testified, regarding growth in the subdivisions served by the Applicant, that his review of Mr. Morrison's books and operations in January of 1972 indicated 309 customers as of that time; that in his plant original cost exhibit the composite annual depreciation rate was 3.73%; and that the Applicant's operating and maintenance expense, on a per customer basis, appears reasonable for a water company operation serving in the range of 270 to 309 customers.

On cross-examination, Mr. Griffin testified that the deficiencies in the water systems include an iron problem in several of the systems (which the Applicant is attempting to solve by installing iron filters) inadequate line size and lack of storage, plus the problem arising from these two things being compounded by the absence of water meters; that it would take a minimum of $35,000 and possibly more, to bring the systems up to design standards promulgated by the State Board of Health; that in all systems which have not been approved by the Board of Health, the pipes are of insufficient size; that the storage is currently insufficient in all of the systems; that the Applicant's evidence of original cost being approximately $88,000 does not appear excessive; that the Applicant would have to put in more than the net value today in order to bring the systems up to standard, not including $7,000 to $8,000 for water meters.

Based upon the evidence of record, the Commission makes the following

FINDINGS OF FACT

1. That the Applicant in this case is a North Carolina corporation providing public utility water service in twelve

residential subdivisions in the general area around Hickory, North Carolina, pursuant to a Certificate of Public Convenience and Necessity issued by this Commission in 1964, and in one additional subdivision, Oakdale, also in the same general area, for which no Certificate has been granted.

2. That the Applicant has abandoned its service in the Herman Development as a result of the availability of city water, although it failed to so abandon service in accordance with G. S. 62-118.

3. That the Applicant is presently providing public utility water service at a flat rate of $4.00 per month and at the approved metered rate to only four or five customers. Although metered rates, consisting of $4.00 for the first 3,000 gallons and $.60 per 1,000 for all over 3,000 gallons were approved in 1964, the Applicant has never undertaken a system-wide meter installation program, although such a program was required by Orders issued April 24, 1964, and November 4, 1965, to be effective December 31, 1966. It is estimated that the investment required to install meters would be in the range of $7,000-$8,000.

4. That the water service currently being provided by the Applicant is not adequate, efficient and reasonable service, but to the contrary is seriously inadequate, inefficient and unreasonable.

5. That the service deficiencies are a direct result of inadequate and inefficient plant; the systems have not been improved since 1964 commensurate with the growing increases in demand.

6. That in the Order granting said Certificate issued April 24, 1964, recited that the Applicant had been advised by the State Board of Health "not to place more than nine users" on the water systems in a number of subdivisions until such time as distribution line sizes were increased; those subdivisions, and the number of customers served at that time are as follows: Fairbrook, nine; Herman Development, six; Greenwood, nine; Whispering Pines, seven; Sherrill Development, six; extension of service was subsequently carried out without all the necessary system improvements.

7. That the Order issued April 24, 1964, contained the further caveat that, "Applicant is required by law to maintain and operate its plant in accordance with health standards and requirements."

8. That the water systems in question have, during the past eight years, been engineered in such a way as to engender the presently inadequate service, inasmuch as the systems have been extended and expanded without improvements in line size and the addition of sufficient storage capacity to meet the increased demands, and the problem has been

compounded by indiscriminate demands resulting from the absence of meters.

9. That the test year net investment in water utility plant used and useful in providing the service rendered to the public within this State is $28,310; there is no evidence of reproduction or replacement costs by trending or by other means.

10. That the reasonable allowance for working capital is $1,758, thereby resulting in a net investment in "public utility property", that is, utility plant plus working capital, of $30,068.

11. That the fair value of the public utility property used and useful in providing the service rendered to the public within this State would, if the utility were providing adequate and efficient service, be equal to at least the net original cost of plant plus working capital, or $30,068; although ordinarily replacement value evidence should be given due consideration, the Applicant has not made a showing of such valuation and is consequently unable to obtain the higher valuation usually resulting from such consideration during inflationary periods.

12. That the extensive rehabilitation program necessary to provide adequate and efficient water service to Applicant's customers would cost no less than $35,000, said $35,000 being the low side of the range of $35,000 to $50,000 and up projected in Witness Griffin's Staff Exhibit No. 2.

13. That in ascertaining the fair value of property used and useful in providing the service rendered, the Commission must consider the adequacy of the service being provided as one element bearing on the fair value of the utility property, and should exclude from the rate base a dollar amount attributable to that portion of the plant which is providing inadequate and inefficient service; upon considering the original cost net investment plus working capital of $30,068 on the one hand and the $35,000, which is the lowest evidence (i.e., that most favorable to the Applicant) of the necessary projected rehabilitation cost, and upon adjusting the net investment plus working capital to exclude the $35,000 projected rehabilitation cost, the Commission finds a zero fair value for the purposes of rate of return at this point in time. This does not mean that the property is valueless in terms of the exchange or sales price it would command as used or secondhand property on the market, but it has reference to the value of the property actually in use properly serving its purpose as a part of an adequate and efficient public utility operation.

14. That the rate of return sought herein of 8.25% on a fair value of $30,068 would be just and reasonable and would be approved if the utility plant were adequate and efficient

such as to produce adequate, efficient and reasonable service.

15. That the evidence in this case does not establish that the Applicant should earn said 8.25% rate of return on its substandard utility plant; rather, the Applicant should earn such a rate of return only at such time as the plant has been improved and rehabilitated so as to provide adequate, efficient and reasonable service.

Whereupon the Commission reaches the following

CONCLUSIONS

The Commission concludes that the metered rates fixed for this public utility in 1964 allowed it to charge rates sufficient to maintain its properties and to earn a fair return thereon, said rates being not only sufficient at that time, but throughout the period up to and including the test year. The utility has, however, apparently chosen not to make the investment in water meters which would have produced for the utility the full revenues which it has been allowed. If this utility had charged the 273 test-year customers on the metered rate, at the statistical average usage of 6,000 gallons per month per residence, of which this Commission takes judicial notice, it would have received test-year revenues in excess of what it seeks herein ($5.80 x 12 x 273 = $19,000.80, compared with the post-increase revenues of $19,656 indicated by Witness Schock's audit). With 309 customers being served currently, the revenues under metered rates would be $21,506.40.

The service provided by the Applicant utility has been found herein to be inadequate and inefficient service and the water systems in question have, during the past eight years been engineered in such a way as to engender the presently inadequate service. The utility is now before this Commission for a substantial increase in rates. In accordance with the mandate of our Supreme Court in the case of Utilities Commission vs. Morgan, Attorney General, 277 NC 255, 177 SE 2d 405 (1970), we are faced with the following question: ". . .What is a reasonable rate to be charged by the particular utility company for the service it proposes to render in the immediate future? The determination of this question is for the Commission in accordance with the direction of G. S. 62-133. Serious inadequacy of such service found by the Commission upon substantial evidence is one of the facts which the Commission is required by that Statute to take into account in making that determination. . ."

Accordingly, we have found that the rate of return sought herein would be just and reasonable if the utility plant were adequate and efficient such that the utility were providing adequate and efficient service. We have also found, however, that the service is inadequate and inefficient and that there are serious service deficiencies

which are a direct result of inadequate and inefficient plant. This being the case, it would be unfair to the public for the utility to obtain the rate of return sought on the inadequate and inefficient plant. We, therefore, conclude that the requested rate relief must be denied until such time as the utility plant and the service provided thereby are sufficiently adequate, efficient and reasonable to justify the increased rates. The application should be denied without prejudice to its refiling at such time as the service deficiencies have been corrected.

With reference to the Applicant's operation of one subdivision water system without first obtaining a Certificate of Public Convenience and Necessity therefor, we conclude that said operation is in violation of G. S. 62-110 and that Applicant should file for the requisite Certificate immediately.

We conclude further that the public interest requires that the Applicant should immediately review his water testing procedures with a view to sending in monthly samples from each separate well in each subdivision served.

IT IS, THEREFORE, ORDERED:

1. That the application for increased rates be, and hereby is, denied and the Applicant is instructed to continue charging the rates previously in effect.

2. That the Certificate of Public Convenience and Necessity heretofore issued on April 24, 1964, to the extent said Certificate establishes a franchise for water utility franchise in Herman Development be, and hereby is, cancelled.

3. That the Applicant be, and hereby is, ordered not to terminate or abandon service in any other subdivision without Commission approval as required by G. S. 62-118.

4. That the Applicant be, and hereby is, ordered to file an application for a Certificate of Public Convenience and Necessity to provide public utility water service in Oakdale Subdivision.

5. That the Applicant be, and hereby is, ordered to file monthly water samples with the State Board of Health for bacteriological analysis, said samples to include samples from all wells in all subdivisions served.

6. That the Applicant be, and hereby is, ordered not to begin the construction or operation of water systems in any other subdivisions without first obtaining a Certificate of Public Convenience and Necessity in accordance with G. S. 62-110.

ISSUED BY ORDER OF THE COMMISSION.

This the 5th day of April, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

DOCKET NO. W-254, SUB 3

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Regional Utility Company, 918 Haywood Road, Asheville, North Carolina, for Approval of Common Stock Transfer	)))	ORDER GRANTING APPROVAL OF COMMON STOCK TRANSFER

BY THE COMMISSION: On May 1, 1972, the Applicant, Regional Utility Company, filed an application with the North Carolina Utilities Commission for approval of the sale of the common stock of the Applicant by The Key Company to Thomas O. McCurry.

By Order issued on May 17, 1972, the Commission required that the Applicant give public notice of the application, and that the Applicant file additional information concerning the financial condition of Thomas O. McCurry. Public notice was given as specified in the Commission's Order, advising that anyone desiring to intervene or to protest the application was required to file their intervention or their protest with the Commission by June 5, 1972. No protests or interventions were received.

The information contained in the application and the information filed by the Applicant in response to the Commission's Order indicate that the Applicant will continue to operate in the same manner under the new management of Thomas O. McCurry as it did under The Key Company, that the financial condition of Thomas O. McCurry is satisfactory to undertake the management of Regional Utility Company, and that services to the customers should be improved under management by Thomas O. McCurry due to the convenience of the owner's office location in Asheville.

IT IS, THEREFORE, ORDERED AS FOLLOWS:

1. That Thomas O. McCurry, 918 Haywood Road, Asheville, North Carolina, is hereby authorized to purchase the common stock of Regional Utility Company from The Key Company.

ISSUED BY ORDER OF THE COMMISSION.

This the 22nd day of June, 1972.

NORTH CAROLINA UTILITIES COMMISSION
Katherine M. Peele, Chief Clerk

(SEAL)

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27.	Howard, Glenn Steven Recommended Order Revoking Authority	T-1527	10-24-72
28.	Lynnwell Mobile Home Park Recommended Order Denying Application	T-1621	9-13-72
29.	McEntire, Garvin W. Recommended Order Denying Application	T-1634	12-21-72
30.	McKeithan, Julian B. - Order Granting Operating Authority	T-998, Sub 1	10-18-72
31.	Mills Transfer & Storage Company - Order Cancelling Certificate	T-1029, Sub 4	1-18-72
32.	Morgan Drive Away, Inc. - Order Amending Certificate	T-1069, Sub 2	4-10-72
33.	Morris, Travis - Order Cancelling Certificate	T-1181, Sub 1	7-7-72
34.	National Trailer Convoy, Inc. Order Amending Certificate	T-1097, Sub 3	4-17-72
35.	Northeastern Trucking Company Order Denying Application	T-1196, Sub 4	6-19-72
36.	Parks, Charles, Transfer Company - Order Cancelling Certificate	T-50, Sub 2	2-3-72
37.	Ray's Mobile Moving	T-1624	10-25-72

	Recommended Order Denying Application		
38.	Rice, Charles, Jr. - Order Cancelling Certificate & Order to Show Cause	T-1524	4-25-72
39.	Royall Mobile Home Service Order Cancelling Certificate	T-1573	4-17-72
40.	Southern Cotton Storage, Incorporated - Order Cancelling Certificate	T-522, Sub 3	1-18-72
41.	Stacy's Moving Service Recommended Order Granting Operating Rights	T-1612	8-9-72
42.	Stacy's Moving Service Recommended Errata Order Correcting Recommended Order Granting Operating Rights	T-1612	8-17-72
43.	Stacy's Moving Service - Order Cancelling Certificate	T-1612	11-2-72
44.	Tar Heel Oil Company - Order Granting Application as Amended	T-1619	10-4-72
45.	Town & Country Mobile Homes of Whiteville, Inc. - Order Granting Operating Rights	T-1585	3-7-72
46.	Weil-Creech Transport - Order Cancelling Permit	T-987, Sub 6	9-20-72
47.	West, Jack Harrold Recommended Order Granting Authority	T-1580	1-20-72
48.	Wilburn, Richard Lewis - Order Granting Certificate	T-1622	12-4-72
49.	Wil-Com Truck Line Recommended Order Granting Application	T-1607	4-17-72
50.	Winter's Mobile Home Service Recommended Order Denying Application	T-1571, Sub 1	2-1-72
C.	Change in Name		
1.	Air Freight, Incorporated, from Terminal Transfer & Storage Company, Inc. - Order Approving Change in Corporate Name	T-302, Sub 9	8-31-72

24.	Parks Moving & Storage, Inc., from Able Moving & Storage Company - Order Approving Transfer	T-1601	3-9-72
25.	Patterson Storage Warehouse Company, Inc., from Ezzell Farms - Order Approving Transfer	T-857, Sub 1	8-29-72
26.	Piedmont Movers (Aluminum Manufacturing Corporation, d/b/a) from Piedmont Movers, Inc. - Order Approving Transfer	T-1454, Sub 1	10-31-72
27.	Reliable Van & Storage, Inc., from Read's Truck Line - Order Approving Transfer	T-1597	2-8-72
28.	Reliable Van & Storage, Inc., from Read's Truck Line Correction Order	T-1597	2-9-72
29.	Roy's Mobile Home Movers from Sides Mobile Home Sales, Inc. Recommended Order Approving Transfer	T-1609	4-21-72
30.	S & R Auto & Truck Service, Inc., from Klondike Wrecker Service - Order Approving Transfer	T-1603	4-20-72
31.	Sheets Transfer & Storage from Haynes Transfer - Order Approving Transfer	T-1592	1-10-72
32.	Smith's Transfer Company from Smith Transfer - Order Approving Transfer	T-470, Sub 1	4-11-72
33.	Smith, Aaron, Trucking Company, Inc., from Aaron Smith - Order Approving Transfer	T-648, Sub 6	4-4-72
34.	Star Truck Lines from Harrell Truck Lines, Incorporated Order Approving Transfer	T-1599	3-9-72
35.	Taurus, A., Van Lines from Rohr Moving & Storage - Order Approving Transfer	T-1593	3-3-72
36.	Valley Transfer, Inc., from Yount Transfer, Inc. - Order Approving Transfer	T-330, Sub 5	9-22-72

	Authority to Borrow Funds Granted		
11.	Norfolk & Carolina Telephone & Telegraph Company - Authority to Issue & Sell Sinking Fund Debentures Granted	P-40, Sub 118	1-21-72
12.	North Carolina Telephone Company - Authority to Execute Conditional Sales Contracts Granted	P-70, Sub 112	8-3-72
13.	Old Town Telephone System, Inc. Authority to Borrow from the United States of America through the Rural Telephone Bank an Additional Amount of $1,548,750 Granted	P-44, Sub 62	6-13-72
14.	Randolph Telephone Company Authority to Borrow from the United States of America & Rural Telephone Bank an Additional Amount of $280,350 Granted	P-61, Sub 47	4-25-72
15.	Thermal Belt Telephone Company Authority to Borrow from the United States of America an Additional Amount of $960,000 Granted	P-50, Sub 44	3-14-72
16.	United Telephone Company of the Carolinas, Inc. - Authority to Issue & Sell First Mortgage Bonds & Common Stock	P-9, Sub 125	10-3-72
17.	Western Carolina Telephone Company - Authority to Issue & Sell Preferred & Common Stock & First Mortgage Bonds Granted	P-58, Sub 88	10-19-72
D.	Tariffs		
1.	Carolina Telephone & Telegraph Company - Order Vacating Commission's Order of April 10, 1972 Concerning Tariffs for a General Offering of Four New Data Sets	P-7, Sub 554	5-30-72
2.	Lee Telephone Company - Order Approving Tariff on Less than Statutory Notice	P-29, Sub 86	7-17-72

VIII. WATER AND SEWER

11.	Conner Homes Corporation Approved	W-343	8-23-72
12.	Consolidated Utilities, Inc. Approved	W-332	4-18-72
13.	Crestview Water Systems, Inc. Granted	W-325	4-19-72
14.	Duan Waterworks, Inc. Approved	W-346	11-3-72
15.	Duchess Forest Water Supply Approved	W-324	2-10-72
16.	Essential Utilities, Inc. Approved	W-297, Sub 1	5-23-72
17.	Fairway Shores Water Company Approved	W-309	4-24-72
18.	Forest Hills Water Company, Inc. - Approved	W-287	2-4-72
19.	Gabriel's Pinewood Acres Approved	W-344	8-28-72
20.	Genoa Water System - Approved	W-321	1-17-72
21.	Griffin, Ed, Land Company Approved	W-266, Sub 1	1-24-72
22.	Griffin, Ed, Land Company Approved	W-266, Sub 2 W-266, Sub 3	11-6-72
23.	H & H Water Service - Approved	W-89, Sub 6	6-22-72
24.	H & H Water Service - Approved	W-89, Sub 7	11-10-72
25.	Hanover Services, Inc. Approved	W-323	1-5-72
26.	Hasty Pump Sales & Service Approved	W-290, Sub 3	2-24-72
27.	Hasty Pump Sales & Service Approved	W-290, Sub 4	12-8-72
28.	Heater Utilities, Incorporated Approved	W-274, Sub 5 W-274, Sub 6	1-14-72
29.	Heater Utilities, Incorporated Approved	W-274, Sub 7	5-16-72
30.	Heath, Nelson - Approved	W-322	2-28-72

3.	Fairway Acres Water System Approved	W-260, Sub 2	12-15-72
4.	Fairway Acres Water System Recommended Order Approving Rates but Withholding Effective Date	W-260, Sub 2	9-26-72
5.	Lincoln Water Works, Inc. Revised Rates Approved	W-335	9-22-72
6.	Piedmont Construction and Water Company, Inc. - Approved	W-262, Sub 6	4-12-72
7.	Reynolds, L. A., Industrial District, Inc. - Approved	W-263, Sub 1	11-7-72
8.	Rozzelle, Fred D. - Order to Cease & Desist Excess Charges & Requiring Refunds & Billing Records	W-202, Sub 3	11-22-72
9.	Sanitary Utilities, Inc. Approved	W-284, Sub 1	3-10-72
10.	Scientific Water & Sewage, Inc. Approved	W-176, Sub 5	7-31-72
E.	Sales and Transfers		
1.	Bess Brothers, Inc., from Sedgefield Realty Company Recommended Order Granting Franchise & Approving Sale & Transfer	W-331	3-9-72
2.	Cape Fear Utilities, Inc., from Quality Water Supply Recommended Order Approving Transfer of Franchise & Water System	W-279, Sub 1	6-21-72
3.	Carolina Water Service, Inc., from Southern Gulf Utilities-South Carolina Division, Inc. Recommended Order Approving Transfer of System & Certificate	W-354	10-30-72
4.	City of Charlotte from Mecklenburg Engineers & Contractors, Inc. - Order Approving Transfer & Cancelling Franchise	W-138, Sub 7	11-16-72